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THE HISTORY OF ENGLISH MARRIAGE LAW

(Concluded)

III

THE Matrimonial Causes Bill of 1857 was founded on the Report of a Royal Commission of 1853, which was presided over by Lord Campbell, one of the most distinguished judges of the Common Law.¹

The Bill, which was naturally a Government measure, was first introduced in the House of Lords, where it met with fierce criticism and strong resistance.² In due course it reached the Commons, where the Prime Minister, Lord Palmerston, left the whole carriage of the Bill to the Attorney-General, Sir Richard Bethell, K.C.³ In introducing the measure, the Attorney-General admitted that the Bill had excited anxiety and alarm in the country at large, by reason of the belief that it was an attempt to introduce new principles affecting relations which lay at the very foundation of civil society. The alarm was groundless: the Bill involved only long-established principles and, in the new Statutory Court which it proposed, gave a local habitation to doctrines that had been recognized as part of the law of the land, and admitted in a judicial manner (though through the medium of a Legislative assembly) for nearly two centuries.⁴

¹ He was in turn Lord Chief Justice and Lord Chancellor.

² Among the opponents of the measure in the Lords, Dr Wilberforce Bishop of Oxford was outstanding.

³ Afterwards Lord Westbury, the same who, in a debate in the Lords on the sentence passed by Convocation on *Essays and Reviews*, described a Synodical judgement as "a well-lubricated set of words—a sentence so oily and saponaceous that no one can grasp it". For his views on the subordination of Ecclesiastical law to Common law, see the case of *Hunt v. Hunt*, 1862, 4 de G. F. and J. at p. 226: THE CLERGY REVIEW, April 1948, p. 229, note 2.

⁴ The Attorney-General also pointed out that Cranmer, and the lawyers and divines who were consulted in the Marquis of Northampton's case (1542), recognized the principle of divorce *a vinculo*.

The administration of law upon settled principles and according to rules previously fixed was essentially a judicial act and it mattered not (argued the Attorney-General) whether the duty was discharged by a body calling itself a Legislature or by two or three individuals sitting as an ordinary Court of Justice. Under the existing procedure by Private Bill, a party seeking divorce must three times prove his injury before he was entitled to a divorce *a vinculo*; first in the Ecclesiastical Court, then in an action for damages at Common Law, and lastly in the House of Lords.¹ Since 1703 there was no recorded instance of a Bishop objecting in Parliament to the passing of any of those Bills on the ground that Marriage was by Scriptural authority or English law indissoluble. How could they entertain the argument that such Bills were against the authority of Scripture when their Bishops, age after age, had been parties to those Bills, and when the two Houses of Parliament had, in all those instances, recognized the very principle of law which was embodied in the Bill?² As for the Petition of the 6000 clergymen that Parliament should not lay on their consciences the load of

¹ The process is illustrated in a celebrated address by Mr Justice Maule to a hawker, convicted of bigamy, who urged in mitigation that his lawful wife had long ago left her home and children to live with another man: "I will tell you what you ought to have done under the circumstances, and if you say you did not know, I must tell you that the law conclusively presumes you did. You should have instructed your Attorney to bring an action against the seducer of your wife for damages: that would have cost you about £100. Having proceeded thus far, you should have employed a Proctor and instituted a suit in the Ecclesiastical Courts for a divorce *a mensa et thoro*; that would have cost you £200 or £300 more. When you had obtained a divorce *a mensa et thoro*, you had only to obtain a private Act for a divorce *a vinculo matrimonii*. The Bill might possibly have been opposed in all its stages in both Houses of Parliament, and altogether these proceedings would cost you £1000. You will probably tell me that you never had a tenth of that sum, but that makes no difference. Sitting here as an English judge it is my duty to tell you that this is not a country in which there is one law for the rich and another for the poor. You will be imprisoned for one day."

² The protagonist of the Opposition in the House of Commons was Mr Gladstone, who vehemently protested against "one of the most degrading doctrines that can be propounded to civilized men—namely, that the Legislature has power to absolve a man from spiritual vows taken before God". In an article in the *Nineteenth Century*, in 1887, Gladstone wrote: "Lord Westbury and I were placed in conflict by the Divorce Bill. But he was the representative of a prevailing public sentiment as well as of an Administration: I of an opinion which had become isolated and peculiar." In the Commons, the Greek text of Matthew (xix, 9) and other parts of the Gospels were brought into debate, though it is perhaps an excess of patriotism to say that "the Textual controversy was nowhere carried on with greater acuteness or under more critical conditions than within the walls of the British Parliament" during the passage of the Bill of 1857. In the debates that led up to the Act of 1937 there was little talk and little thought of the Scriptures.

celebrating the intermarriage of the guilty parties, he answered that the true union of Church and State in this country meant that the Church was subordinated to and upheld by the Common law, like every other institution, on the principle of the Supremacy of the Crown.¹

The main purpose of the Act of 1857 was to set up a new Statutory Court and there to centralize the administration of the matrimonial law by conferring on it all jurisdiction² then exercisable by any Ecclesiastical Court in all causes, suits and matters matrimonial; and by endowing the new Court also with a regular jurisdiction to grant decrees of divorce *a vinculo* in certain cases. The traditional system of diocesan and provincial Courts had exercised jurisdiction in suits of nullity of marriage, of divorce *a mensa et thoro*,³ of restitution of conjugal rights, of jactitation of marriage. In all such suits and proceedings (subject to the provisions of the Act, and of rules and orders made under it) the new Statutory Court was directed to proceed and give relief on principles and rules as nearly as may be conformable to the principles and rules on which the Ecclesiastical Courts had acted and given relief.

Decrees *a vinculo* were to be granted on the same grounds as had been recognized by the House of Lords in the passage of Private Bills of Divorce: A husband might petition for a decree of dissolution on the ground that his wife had since the marriage been guilty of adultery; and a wife might petition⁴ for a decree

¹ On this matter the Government were obliged to give way. The Act provides "that no clergyman in Holy Orders of the United Church of England and Ireland shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty, or censure for solemnizing or refusing to solemnize the marriage of any such person". On the other hand, any clergyman so refusing was obliged to permit another clergyman of the same diocese to perform the marriage service in his church or chapel. By the Act of 1937 no clergyman is now compelled to permit the marriage of any divorced person in the church or chapel of which he is the minister.

² Except in respect of marriage licences.

³ In future, instead of a decree of divorce *a mensa et thoro*, a decree of Judicial Separation was to be pronounced, with the same legal force and consequence. The change of the name was, one imagines, to avoid confusion between the new decree of divorce *a vinculo* and the old decree of divorce *a mensa et thoro*.

⁴ The term "Petition" was retained from the old procedure by Private Bill in Parliament in preference to the term "*Libel*" (or *libellus*) which was used in the Ecclesiastical Courts. The Petition to the Crown put in evidence the public importance of the marriage relation: it was a humble request that the awful power of an Omnipotent Parliament might be exercised to decree a divorce *a vinculo*.

of dissolution on the ground that since the marriage her husband had been guilty of incestuous adultery, or of bigamy with adultery, or of rape, or sodomy or bestiality, or of adultery coupled with such cruelty as would have entitled her to a divorce *a mensa et thoro*, or of adultery coupled with desertion for two years or more. In a petition for dissolution of marriage or for judicial separation, or in a petition limited to such object only, a husband was empowered to claim damages from any person on the ground of his having committed adultery with the wife of the petitioner, the damages to be recovered on any such petition being ascertained in all cases by the verdict of a jury,¹ even though the respondents or either of them did not appear. On a contested issue of adultery the parties or either of them were entitled to insist on trial by jury. The jury was to be summoned in the way in which juries were summoned by the Superior Courts of Common law at Westminster, and were to have the like duties and liabilities. In all proceedings before the Court witnesses were to be sworn and examined orally in open Court; and the rules of evidence observed in the Courts of Common law were to be followed in the trial of all questions of fact.

The Judges of the new Statutory Court were to be the Lord Chancellor, the Lord Chief Justice of the Court of King's (or Queen's) Bench, the Lord Chief Justice of the Court of Common Pleas, and the Judge of the Court of Probate,² constituted by an Act of the same session of Parliament, to which was transferred the traditional jurisdiction of the Ecclesiastical Courts in matters of Probate and Administration of Wills and Intestacies.

All petitions either for a dissolution or a sentence of nullity of marriage were to be heard and determined by *three or more Judges* of the Court, of which the Judge Ordinary (i.e. the Judge

¹ In this way the old jurisdiction of the Common Law Courts in actions for damages for *crim. con.* became exercisable by the new Statutory Court.

² The Judge of the Court of Probate was to be called the Judge Ordinary (a title that was perhaps intended to carry a certain reminiscence), and had full authority alone or with one or more of the other Judges of the Court to hear and determine all matters *except petitions for the dissolving or annulling of marriage*, and certain other technical or special matters.

An Act of 1858 (the Legitimacy Declaration Act) empowered the new Statutory Court to entertain petitions from persons seeking to establish their legitimacy or the validity of the marriage of their parents or grandparents or their right to be deemed natural-born subjects.

of the Court of Probate) was to be one. Only three years later, by an Act of 1860, the Judge Ordinary was given power *alone* to hear and determine *all matters* arising in the Court of Divorce and Matrimonial Causes, and to exercise all powers and authority originally intended to be exercised by three or more Judges of the Court;¹ a right of reference or of appeal to the full Court, or direct to the House of Lords, being provided in certain cases. The Act of 1860 also provided that every decree of dissolution should in the first instance be a decree *nisi*, not to be made *absolute* till after the expiration of a certain period of time (subsequently fixed at six months). During this period any person was at liberty to show cause why the decree should not be made absolute, by reason of collusion or the suppression of material facts; and, at any time before decree absolute, the King's Proctor, if through information received or otherwise he had reason to suspect that the parties to a suit were acting in collusion for the purpose of obtaining a divorce contrary to the justice of the case, might intervene and retain counsel and subpoena witnesses to prove it.² In 1873 interventions to show cause against a decree were extended to nullity suits.

In the event of the Court not being satisfied that the alleged adultery had been committed, or finding that the petitioner had

¹ The reason for the change lay, one imagines, in the unexpected number of petitions for dissolution. In 1860 Lord Campbell (who had presided over the Royal Commission of 1853) was Lord Chancellor. His journal contains an entry, under date 10 June, 1859: "I have been sitting 2 days in the Divorce Court and, like Frankenstein, I am afraid of the monster I have called into existence. Upon the average I believe there were not in England above 3 divorces a year *a vinculo matrimonii* and I had no idea that the number would be materially increased if the dissolution were judicially decreed by a Court of Justice instead of being enacted by the Legislature. But I understand that there are now 300 cases of Divorce pending before the Court. This is rather appalling. In the first place the business of the Court cannot be transacted without the appointment of fresh Judges, and there seems some reason to dread that the prophecies of those who opposed the change may be fulfilled by a lamentable multiplication of divorces, and by the corruption of public morals." *Life of Lord Campbell*, ii, 361-362.

In 1910 Mr Justice Bargrave Deane, with 30 years' experience at the Bar and on the Bench of the Divorce Division, told a Royal Commission: "I think it is a misfortune the Divorce laws were ever passed. The existence of divorce makes people think less of the marriage tie. They take the risk . . . because they think they can get rid of it afterwards." Cited by Lord Merrivale, *Marriage and Divorce*, Allen and Unwin, 1936, p. 44.

² The recent reduction of the interval between decree *nisi* and decree absolute from six months to six weeks, and the immense increase in the number of petitions for divorce (without any corresponding increase in the staff of the King's Proctor), have brought down almost to vanishing-point the possibility of effective intervention.

during the marriage been accessory to or connived at the adultery of the other party or condoned it, or that the petition had been presented or prosecuted in collusion with either of the respondents, the Court was instructed to dismiss the petition.

In the event of the Court being satisfied on the evidence that the case for the petitioner had been proved, and not finding that there had been connivance or condonation or collusion, the Court was instructed to pronounce a decree of dissolution;¹ with the proviso that "the Court shall not be bound to pronounce such decree if it shall find that the petitioner has during the marriage been guilty of adultery".² In such a case the Court was entitled, if it thought fit, but was nowise obliged, to "exercise its discretion" in favour of a peccant petitioner.

In the matter of decrees *a mensa et thoro* the Act of 1857 made another departure of substance from the old Ecclesiastical law: a sentence of judicial separation (which was to have the effect of the old decree *a mensa et thoro*) might be obtained, either by the husband or the wife, not only on the ground of adultery or of cruelty but also on the ground of desertion without cause for two years and upwards. (Under the old Ecclesiastical law the remedy for desertion was a decree for restitution of conjugal rights.) By a Statute of 1884 non-compliance with a decree for restitution of conjugal rights was deemed to be desertion without reasonable cause, and a sentence of judicial separation might be *immediately* pronounced, without waiting for the two years to elapse.³ Under this Act a wife was allowed forthwith

¹ "The Court shall pronounce a decree declaring such marriage to be dissolved": S. 31 of the Divorce Act, 1857.

² Or if the petitioner shall, in the opinion of the Court, have been guilty of unreasonable delay in presenting or prosecuting such petition, or of cruelty towards the other party to the marriage, or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse, or of such wilful neglect or misconduct as has conduced to the adultery: S. 31 of the Divorce Act, 1857.

³ It is convenient here to call attention to a series of Statutes which conferred on Courts of Summary Jurisdiction (that is, on Magistrates sitting in Petty Sessions) many of the powers that were exercised by the old Ecclesiastical Courts. The Act of 1857 merely gave to a Police Magistrate or Justices in Petty Sessions power to make an order protecting (against the husband and his creditors) any money or property a wife might acquire by her own lawful industry, after she had been deserted by her husband. An Act of 1878 enabled a Court of Summary Jurisdiction to make an Order (having the force and effect in all respects of a decree of judicial separation on the ground of cruelty) that a wife shall be no longer bound to co-habit with her husband who had been convicted summarily or otherwise of an aggravated assault on her. In such a case the magistrates might in their discretion award to the wife

to present a petition for dissolution of her marriage and the Court was empowered to pronounce a decree *nisi* for dissolution on the grounds of adultery coupled with desertion in any case in which a husband who had failed to comply with a decree for restitution of conjugal rights had also been guilty of adultery.¹

Apart from the introduction of divorce *a vinculo*, the main intention and effect of the Act of 1857, as we have seen, was to transfer to the Judges and lawyers of the Common law and of the Inns of Court the jurisdiction in causes and matters matrimonial which had for centuries been exercised by the Civilian

the legal custody of the children *under the age of ten years*. (The Judges of the Divorce Court had from the beginning power to make orders for the Custody of the children.) An Act of 1895 extended the power of Courts of Summary Jurisdiction to cases where a husband had been convicted on indictment of an assault upon his wife and sentenced to a fine of more than £5 or more than two months' imprisonment, or whose husband had deserted her, or had been guilty of persistent cruelty to her, or of wilful neglect to provide reasonable maintenance for her or her infant children. In any such case the Court might make an Order of (in effect) Judicial Separation, and for the legal custody of any children of the marriage *under the age of 16 years*.

No Order was to be made if the wife had committed an act of adultery; unless the husband had condoned or connived at or by his misconduct conducted to such adultery. An Act of 1925 again extended the grounds for making an Order (*inter alia*) to cases where the husband had been guilty of persistent cruelty to the children of the wife; and excused the wife whose adultery was in the opinion of the Court conducted to by the failure of her husband to make payments (under an order of the Court) which he was able to make. The Herbert Act of 1937 yet again extended the power of Courts of Summary Jurisdiction to make Orders of (in effect) Judicial Separation and Custody of children where the husband had been guilty of adultery. The same Act enabled the High Court, in subsequent proceedings for Divorce, to treat the decree or order of the Court of Summary Jurisdiction as sufficient proof of the adultery, desertion or other ground on which it was granted.

By virtue of these Statutes the substance of matrimonial jurisdiction that was exercised before 1857 by the "King's Ecclesiastical Courts of the Church of England" in all the dioceses is now exercised by Courts of Summary Jurisdiction everywhere. Fair men have doubted the competence of these Courts of untrained Magistrates to deal with technical issues of "adultery", "cruelty", "connivance", "condonation", "conduct conducing" and so forth. More than once the Judges of the High Court have had to rebuke the Magistrates for their habit of exceeding their jurisdiction. In the issue of *The Times* for 16 October, 1930, the President of the Divorce Division entered a protest: "In the Summons the applicant asked only for maintenance on the ground of wilful neglect on the part of the husband to maintain her. The magistrates made Orders for Separation and Custody of children. It was the second or third case that came before him that morning with similar characteristics. They decreed a judicial separation and broke up the family without being asked for such an Order."

In the years before the war (1939-1945) at least 10,000 of these Orders were made per annum, and it was reckoned that some 50,000 or 60,000 were on foot at one time. The annual number of orders is said to have largely increased since 1939.

¹ In this way a decree for restitution of conjugal rights, in its origin a means of restoring the institution of marriage, was turned into an instrument of dissolution.

Judges and Advocates of Doctors' Commons. The Act expressly authorized the surrender of the Charter, and the sale of the buildings and properties, of Doctors' Commons, and empowered the Fellows to deal with the proceeds as they chose. In due course the buildings and properties were sold; as well as some 2500 of the 6000 books of Civil and of Canon law that formed the Library. In this way the Roman Civilian lawyers, who had been called in by Henry VIII to take the place of the Roman canonists, and who for more than three centuries had maintained the institution of Christian marriage "almost unimpaired", relinquished their hold on the matrimonial law of England.¹

The history of English marriage in the years since 1857 has been summarized by Lord Russell of Killowen in a single sentence: "What was once a holy estate enduring for the joint lives of the spouses is steadily assuming the characteristics of a contract for a tenancy at will."² It means the entire collapse of the Christian tradition of marriage.

The collapse of the tradition of Christian marriage reflects in some sense the general decline in the Christian tradition, which has marked the whole movement of English life and English law during the last century. Thus, as late as 1881, the Ecclesiastical law of England was declared in the House of Lords by a great Judge, namely Lord Blackburn, to be "a part of the general law of England—of the common law—in that wider sense which embraces all the ancient and approved customs of England". The logical result of this view is that Christianity is part of the law of England. Yet, in 1917, in the case of *Bowman v. Secular Society*, the House of Lords decided, by a majority of four to one, that "the phrase 'Christianity is part of the law of England' is really not law: it is rhetoric".³

¹ The historian will note that in the year 1850, just before the disappearance of the Civilian lawyers, the Canon law had returned "from out the Flaminian gate". With the restoration of the Hierarchy, the responsibility for the maintenance of the Christian tradition and law of marriage in England passed once more to the Bishops and the canonists of the Roman Church. See an unsigned article in *The Tablet* dated 26 January, 1946, at pp. 41–42.

² *Fender v. Mildmay*, 1938. Appeal Cases, at pp. 34–35.

³ 1917. App. Cas. at pp. 452–464. And yet, in the course of his judgement, in 1917, Lord Sumner found it possible to say: "Ours is and always has been a Christian State. The English family is built on Christian ideas; and if the national religion is not Christian, there is none." On the case of *Bowman v. Secular Society* see

In the particular matter of marriage the collapse of the Christian tradition was accelerated by the abrupt cessation of the tradition and teaching of the canon law in Doctors' Commons. Over a long series of centuries the Common lawyers had been led to suppose that marriage was a matter for Canonists or for civilians; *une loi du dehors*. Even in the pre-Reformation time the Common law had no doctrine of marriage. In all the centuries of their existence the law of marriage had never been taught at the Inns of Court. From 1857 to 1948 the law of marriage has not been taught at the Inns of Court. In a lecture on the Divorce Laws at King's College, London, in January 1947, the Hon. Mr Justice Denning recalled a *dictum* of Lord Westbury: "Marriage is the very foundation of Civil Society, and no part of the laws and constitution of a country can be of more vital importance to its subjects than those which regulate the manner and conditions of forming, and if necessary of dissolving, the marriage." Mr Justice Denning proceeded: "Nevertheless, despite its vital importance, it forms, so far as I know, no part of the subjects taught in the law schools of our universities or places of learning. The law of contract, of tort, and of property, is taught, but not the law of husband and wife or the divorce laws. *Yet divorce is for many of our students the first subject with which they will have to deal when they commence practice: but they will have to pick it up in the course of their work, with the result that many go through their careers without really appreciating the fundamental principles or the standards of conduct which they should pursue in respect of it.* The law schools are not alone in their neglect of this important subject."¹

Not only is there no oral teaching on the law of marriage: there are, one may say, no text-books on the law of marriage. Turn up the title "*Marriage*" in Halsbury's *Encyclopaedia of the* the comment of Professor Holdsworth. H.E.L., Vol. I (1922 ed.), p. 595; Vol. VIII, 403: "It is true that there is still an Established Church; that the King is still its supreme governor and the defender of its faith; that its law is still the King's ecclesiastical law, and an integral part of the law of England. But like many other parts of the law and constitution of England, these are survivals of an older order, from which all real meaning has departed, with the abandonment of the medieval theory of the relationship of Church to State, to which they owed their origin."

¹ *The Divorce Laws*: Lecture by The Hon. Mr Justice Denning. The Churchman Publishing Co. Ltd., 33 Craven St., W.C.2. 1s. net. The italics are mine. The words apply to most of the eighty or more judges and Commissioners who now administer the divorce laws in England.

Laws of England and you find only a reference: See *Divorce*.¹ Before 1857 there were in existence and daily use Latin and English Treatises by Gibson,² (1669–1748), Ayliffe,³ (1676–1732), Oughton,⁴ (*floruit c.* 1738), and Burn,⁵ (1709–1785). Shelford on *Marriage* (1841), a leading text-book, ran to as many as 1000 pages, with references on every page to the works of English and Roman canonists.⁶

In this state of nescience on the part of the Common lawyers, the evolution of the English law of marriage during the last 100 years has been determined less by *jurisprudentes* of the Inns of Court than by the legislation of Parliament. Since 1857, among a host of other statutes affecting the relations of husband and wife,⁷ a series of not less than thirteen Matrimonial Causes Acts have been enacted. During the same period England has slowly exchanged its ancient character as a Christian State for its new status as a Trading Corporation. With the transition Parliament has tended to exhibit less and less interest in the lawful

¹ In the Library of the Middle Temple is one slight volume on the *Marriage Law of England* by James T. Hammick. It is dated 1887 and is written from the point of view of the Registrar-General, by one who had been Secretary of the Department. There is also a small hand-book (3s. 6d. net) on *Marriage in Church—Chapel and Register Office* (1931) published by Longman's Green & Co. On Divorce, apart from the extensive study in Halsbury by Lord Merrivale, there are large standard works by Rayden, 4th edition, 1942; and Latey, 13th edition, 1945.

² *Codex Juris Ecclesiastici Anglicani*: or the Statutes, Constitutions, Canons, Rubrics and Articles of the Church of England. (In this work the sources of the law are grouped "in conformity to the method of the Decretals" of Gregory IX.)

³ *Parergon Juris Canonici Anglicani*: or a Commentary, by way of Supplement to the Canons and Constitutions of the Church of England. Not only from the books of the Canon and Civil Law, but likewise from the Statute and Common Law of this Realm. (The book was published "not only with a design of doing some service to my country, by illustrating the force and practice of the Canon Law, as far as it has been received and is now observed among Englishmen, but also with a purpose of exposing the errors and superstition of the Romish Church".)

⁴ *Ordo Judiciorum*: sive methodus procedendi in Negotiis et Litibus in Foro Ecclesiastico—Civili Britannico et Hibernico. (The section on Marriage, *De causis Matrimonialibus*, covers Titles 193–217.)

⁵ *Ecclesiastical Law*. By Richard Burn, LL.D., Vicar of Orton in the County of Cumberland. (The four component parts of the Ecclesiastical Law of England are said to be the Civil, the Canon, the Common, and the Statute laws.)

⁶ In a short chapter of 13 pages on Impotence, for example, there are (*inter alia*) five references to *Sanchez de Matrimonio*, with copious citations, one reference to Huberus de *Nuptiis*, four references to the *Parergon* of Ayliffe, and three references to the *Ordo Judiciorum* of Oughton, with one long citation.

⁷ The radical change in the law of marriage made by the introduction of divorce *a vinculo* naturally led to a series of consequential changes in other departments of law: e.g. in the law of property (cp. The Married Women's Property Acts of 1870, 1882, 1893): in the law of maintenance and alimony; of torts; of evidence, and so forth.

relation of spouses and children as members of a Christian family and more and more interest in the factual relation of economic dependence between men and women living together, with their children legitimate or illegitimate.¹ In the end, successive Governments appear to have abandoned the whole care of the marriage relation to private members of Parliament. The Matrimonial Causes Act, 1923, which put the sexes on an equal footing and enabled a wife to petition for divorce on the ground of adultery without alleging any other matrimonial offence, was piloted through Parliament by a private member. And the Matrimonial Causes Act, 1937, was deliberately left by the Government of the day to the scarcely responsible statesmanship of our leading comic writer.² The Act introduced several new grounds of nullity hitherto unknown to the law, the first of these being "that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage".³ It introduced new grounds of divorce in cases of matrimonial offences difficult of definition, e.g. in cases of "desertion without cause" for a period of three years immedi-

¹ The series of Workmen's Compensation Acts since 1897 substituted the concept of factual dependence for that of lawful relationship. During the late war separation allowances were made available to concubines in preference to wives. The political economists of the nineteenth century, who conceived society in the image of two or more men cast on an otherwise uninhabited island, were uniformly hostile to the institution of the family, which did not enter into their analysis. The illegitimate child, *filius nullius, filius populi*, is for John Stuart Mill a norm: "I hold that to no child, merely as such, anything more is due (sc. in point of inheritance) than what is admitted to be due to an illegitimate child" (*Pol. Econ.* Book II, chap. 2, s. 3). In a much lauded book, *Our Towns*, which is referred to in the White Paper on Educational Reconstruction, 1943, the hope is expressed "that John Smith's child may become in truth John Bull's child, a cherished part of its country's capital": *Filius populi*. According to Dr Edith Summerskill woman is now refusing to produce "the most valuable commodity in the world, the embryo worker". In line with all this way of thinking is the somewhat cynical dictum of Lord Jowitt in *Baxter v. Baxter*, 64 T.L.R. at p. 10: "That the institution of marriage generally is not necessary for the procreation of children".

² The Preamble to the Act is not without its interest: "Whereas it is expedient for the true support of marriage, the protection of children, the removal of hardship, the reduction of illicit unions, the relief of conscience among the clergy, and the restoration of due respect for the law, that the Acts relating to marriage and divorce be amended." The author of the Act has lately spoken of the "terrible" figures of divorce: The number of petitions has risen from 272 in 1860 to 844 in 1905 and some 50,000 in 1946. In August 1945 Sir Alan Herbert was knighted for "political and public services".

³ Other new grounds of nullity were: that either party was at the time of the marriage of unsound mind or a mental defective or subject to recurrent fits of insanity or epilepsy; or suffering from venereal disease in a communicable form; or pregnant by some person other than the petitioner.

ately preceding the petition; or where the respondent has treated the petitioner with "cruelty".¹ It introduced other new grounds of divorce in cases where there was no matrimonial offence, i.e. where the respondent "is of incurably unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition"; and where the Court, supposing on reasonable grounds that the respondent is dead, grants a decree of presumption of death and of dissolution of the marriage. Among other novelties is the permission the Act grants to a party at fault to apply for a decree absolute of divorce against himself.

In another way the Act of 1937 makes things easy for a guilty party, this time a guilty petitioner. Before the Act a petitioner for judicial separation or for restitution of conjugal rights who had committed adultery was barred from obtaining a decree: the doctrine of the Ecclesiastical Courts having been that one seeking relief had to come to Court with clean hands. In suits for judicial separation (the modern equivalent of the old decree of divorce *a mensa et thoro*) the Act of 1937 empowers the Court to grant a decree notwithstanding the adultery of the petitioner.² The bar is no longer absolute; the Court has a discretion, as in petitions for divorce *a vinculo*.

In the early days after 1857 the cases in which "the discretion" was exercised in favour of a guilty petitioner were few and far between.³ In 1869 Lord Penzance deprecated "a loose and unfettered discretion, exercised as a free option subordinated to no rules". None the less, it is now and has been for

¹ Before 1857 the remedy for "cruelty" was a decree of divorce *a mensa et thoro*; and the remedy for "desertion" was a decree of restitution of conjugal rights. In a recent case it was held that persistent refusal of sexual intercourse without any other conduct on the part of either spouse making for the disruption of the marriage is not desertion. *W. v. W.*, 1947. Appeal Cases, p. 628. In this case Lord Jowitt, L. C., declared that the solution of such questions is to be found "not upon a consideration of the Christian doctrine of marriage as laid down in the Book of Common Prayer but on the true construction of the relevant Acts of Parliament".

² The old doctrine of the Ecclesiastical Courts is still applicable to petitions for restitution of conjugal rights, which are rarely brought save by a wife seeking a certain financial advantage. The rule that a party seeking relief must come with clean hands is expounded in *Otway v. Otway*, 1888, 13, P.D. 141.

³ In such cases only as e.g. where the respondent had induced the petitioner to believe she was dead and in that belief he had married again; or where the respondent had compelled the petitioner to live a life of prostitution.

long the practice to regard the discretion as unfettered. In 1943, in the House of Lords, Viscount Simon, L.C., indicated four points fit for the consideration of the Court in the exercise of the discretion :

- (1) the position and interest of any children of the marriage;
- (2) the interest of the party with whom the petitioner has been guilty of misconduct, with special regard to the prospect of their future marriage;
- (3) the question whether, if the marriage is not dissolved, there is a prospect of reconciliation between husband and wife;
- (4) the interest of the petitioner and, in particular, the interest that the petitioner should be able to marry and to live respectably.

To these four considerations, which had been worked out in the lower Courts and which won the approval of the Lords, Viscount Simon added a fifth, "which must indeed be regarded as of primary importance, namely the interest of the community at large, to be judged by maintaining a true balance between respect for the binding sanctity of marriage and the social considerations which make it contrary to public policy to insist on the maintenance of a union which has utterly broken down. It is noteworthy that in recent years this last consideration has operated to induce the Court to exercise a favourable discretion in many instances where in an earlier time a decree would certainly have been refused."¹

Since this decision of the House of Lords, Mr Justice

¹ See *Blunt v. Blunt*, 1943. Appeal Cases, 517-525. In cases where the petitioner intends to ask the Court to exercise the discretion in his (or her) favour, it is a rule of practice that the petition shall contain a prayer to that effect, and that he (or she) shall lodge a "discretion statement" (which is inspected and sealed until the hearing) setting forth particulars of the acts of adultery committed and the facts which it is material for the Court to know for the purpose of the exercise of its discretion. One may mention here that in the case of *Orford v. Orford*, 1921, 49, Ontario Law Reports 15, Orde, *Justice* held that the essence of the matrimonial offence of adultery consists not in the moral turpitude of the act of sexual intercourse but in the voluntary surrender to another person of the reproductive powers and faculties of the guilty person. Any submission of those powers to the service or enjoyment of any person other than the husband or the wife is in law adultery. Accordingly, in a case tried on the footing that the wife had been artificially inseminated with the seed of a man not her husband, and without her husband's knowledge, and had borne a child, it was held that she had in law committed adultery.

Denning tells us, the judges almost invariably exercise their discretion in favour of the peccant petitioner, and grant a divorce. "When both are guilty, the marriage has obviously broken down, and there is no useful purpose in keeping it alive."¹ It is in the interest of the Republic that there shall be an end of marriages.

On one other matter the House of Lords has lately given a decision which touches the foundations of marriage. The point in dispute concerned the true construction of an odd section of the Herbert Act, 1937: "A marriage shall be voidable on the ground that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage."² What then is "consummation"? In 1945, in the case of *Cowen v. Cowen*, a divorce judge held that a husband who persistently refused to have intercourse with his wife save with the use of contraceptives or the practice of *coitus interruptus* had not "wilfully refused to consummate the marriage". The Court of Appeal, overruling the trial judge, held that intercourse cannot be said to be complete (and the marriage cannot be said to be consummated) when a husband "deliberately discontinues the act of intercourse before it has reached its natural termination, or when he artificially prevents that natural termination, which is the passage of the male seed into the body of the woman". To hold otherwise would, in the opinion of the Court of Appeal, be "to affirm that a marriage is consummated by an act so performed that one of the principal ends, if not the principal end, of marriage is frustrated". Moreover, "a wife who was ready and willing to consummate the marriage in the fullest sense, but refused to permit intercourse in a manner which deprived her of the opportunity of bearing children, would be subject to what seems to us to be an obvious and intolerable injustice".

The decision of the Court of Appeal in *Cowen v. Cowen* was in line with the canonist authorities and text-books that were in

¹ Mr Justice Denning, *The Divorce Laws*, ubi. sup. p. 16.

² This section, which introduces as a ground of nullity a cause necessarily arising after the marriage, is "contrary to the principles of the Ecclesiastical law as administered in the Ecclesiastical Courts". *Napier v. Napier*, 1915, P. at p. 189. It reads like a grotesque parody of the Papal power in cases of *matrimonium ratum sed non consummatum*.

use in the old Ecclesiastical Courts.¹ Yet it offered temptation to the unscrupulous. When the parties have no children, says Mr Justice Denning, "they seek to turn it into a case of nullity by saying that one or other has wilfully refused to consummate the marriage. This sort of case is easy to manufacture since the decision of the Court of Appeal in *Cowen v. Cowen*. . . . The temptation to manufacture such a case is particularly great because a petition for nullity can be brought at any time after the marriage, whereas divorce cannot be obtained in the first three years. The result is that where contraceptives have been used, childless couples have only to say that throughout their marriage one insisted on using contraceptives against the wish of the other and a case of nullity is made out. No one can challenge it because the truth is known to the two parties and no one else."²

These words of Mr Justice Denning were spoken in January 1947; they may give a clue to the policy behind the decision of the House of Lords in December 1947, when the decision of the Court of Appeal in *Cowen v. Cowen* was overruled. In *Baxter v. Baxter*,³ Lord Jowitt, L.C., in a unanimous judgement of the House of Lords, declared that the word "consummation" in the Act of 1937 was to be construed (not by reference to old canonist authorities and text-books, but) "as that word is now understood in common parlance and in the light of social conditions known to exist". And as, long before the passing of the Matrimonial Causes Act 1937, "it was a matter of common knowledge that reputable clinics had come into existence for the purpose of advising spouses on what is popularly called birth control, and it is also a matter of common knowledge that many young married couples agree to take contraceptive precautions

¹ *Cowen v. Cowen*, 1946, P. 36. The judgement of the Court of Appeal referred to and relied upon Oughton *Ordo Judiciorum*, Title 193, s. 17; Shelford on *Marriage*, 1841, p. 201; and Coote, *Practice of the Ecclesiastical Courts*, 1847, where, in a Libel for Impotence, the petitioning wife alleged that she was "willing to be carnally known in order to become a mother" by her husband.

² Denning, *The Divorce Laws*, ubi. sup. pp. 16-17. The learned judge adds a comment: "This provides a striking illustration of how the legislature, by enacting laws to meet deserving cases, may open a door so wide as to admit divorce or nullity by mutual consent." Elsewhere, at pp. 10-11, he points out that after the Act of 1923 there was an increase in the number of collusive divorces; and that the increase in collusion was one of the causes which led to the Act of 1937.

³ 64 T.L.R., 8.

in the early days of married life", he was "constrained to say there is no warrant for the decision in *Cowen v. Cowen*".¹

According to the Statutes of the English Parliament, as interpreted by the Judges of the Common law, marriage has now its consummation and its end in the pleasure of the senses.²

English law, once informed by Christian ideas, has adopted a false ethic; and a false theology. The false theology, which has lately been echoed by the President of the Divorce Court,³ was already in the mind and on the lips of Lord Campbell, who was in a sense the author of the Divorce Act of 1857.⁴ The theology of 1857 (and of 1947) is in essence the theology of 1533.

The Omnipotence of Parliament, which wrongfully claimed to make Henry VIII Supreme in things that are divine, has now wrought the destruction not only of Christian marriage but even of natural marriage, and is relentlessly working towards the ruin of the State.⁵

Against the Supremacy of Henry and the Statutes of his Parliament John Fisher and Thomas More protested with their lives. The canonization of these great saints has linked the clergy and the laity of our day with the ancient traditions of a

¹ In the course of his judgement the Lord Chancellor stated that the procreation of children does not "appear to be a principal end of marriage as understood in Christendom" (semble) because Lord Penzance had said in *Hyde v. Hyde* (1866, 1. P. and D. at p. 133) that marriage "may for this purpose be defined as the voluntary union for life of one man and one woman to the exclusion of all others": *For this purpose*: that is, of deciding the issue before the Court in *Hyde v. Hyde*, namely whether a marriage between Mormons in a Mormon State was or was not a marriage for the purposes of the English law.

² "Monsieur," said the Abbé Lallemand, Professor of Sociology at the Institut Catholique of Paris, years ago, "on n'enchaîne pas les gens pour le plaisir."

³ *Apt v. Apt*, 1947, P. 127, 135. The point at issue was whether the celebration of marriage by proxy is repugnant to Christian ideas. At the end of a laborious judgement of eighteen pages the Court held it was not so.

⁴ In *Brook v. Brook*, 1861, 9, H.L.C., 193, a domiciled British subject, after the death of his wife, went through a ceremony of marriage with her sister in Denmark, where the marriage of a man with his deceased wife's sister was valid, such a marriage being at the time forbidden in England. It was held by Lord Campbell and his brethren among the Law Lords that "marriage with a deceased wife's sister then being forbidden in this country, not because it was contrary to God's law, but because Parliament had declared it to be contrary to God's law, the relationship between the spouses was fatal to the validity of the marriage, notwithstanding the fact that in the country where the ceremony was performed the marriage was valid". This passage, which represents the common view in 1861 of Lord Campbell (at p. 215), Lord Cranworth (at p. 226), Lord St Leonard's (at p. 233) and Lord Wensleydale (at p. 245) is cited and relied on by Lord Merriman in *Apt v. Apt*, 1947, P. at p. 135.

⁵ It is noteworthy that in the year 1947 there was no national celebration of the 4th centenary of Henry VIII. Yet what Maitland thought the most momentous step he took has yet to be retraced: The schools of Canon law are closed.

Christian land and of a Christian law. "With More perished all that was wisest in England," wrote Professor R. W. Chambers; "with him, Fisher, and the Carthusians all that was holiest. With the leaders of the Pilgrims perished the Mediaeval Chivalry of England."

The task before all those of the Faith on whose soul and conscience lies the burden of reviving in England the tradition of Christian ethics and of Christian theology is to restore something of the wisdom and something of the holiness that marked the men who foresaw the future and who resisted in its origin the principle of our ruin; and once more in Christian homes to re-create the Chivalry of England.

RICHARD O'SULLIVAN

MORSU AMARISSIMO

I COULD not resist the quotation; but indeed it is inapplicable. When Dr Bird was kind enough to notice, in *The Tablet*, my efforts to produce a rendering of the new Latin Psalter, he shewed a scholar's generosity in making allowance, as far as he might, for the short-comings of the amateur. If, on a first reading, I found myself murmuring the familiar lines:

Perhaps it was right to dissemble your love,
But why did you kick me downstairs?

further reflection reminded me that Dr Bird was born with a blue pencil in his mouth, and praise from him, though it be incidental, is praise worth having. And he is complimentary beyond all I deserve, if only I would stick to my *métier*. Never was so sugar-coated an atom-bomb.

Whether the publishers would have been better advised to put out a word-for-word translation of the new Psalter, it is not for me to determine. But I think they understood that if I tried my hand at it, the result would be a cock-shy—or, if you will,

a pilot-engine to explode the booby-traps that await my Old Testament efforts. When I brought out a version of the New Testament, it first appeared in a privately printed form, welcoming criticism; and the generous response of the public to this appeal enabled me to introduce some five hundred alterations into the authorized edition. This in spite of previous overhauling by a committee of experts—Dr Bird was one. My Old Testament rendering has undergone no such preliminary scrutiny; all the more welcome, then, is criticism of its character from Dr Bird or from anybody else who is kind enough to read it. There are bound to be mistakes in it, faults of taste, exaggerations.

A cock-shy—and God forbid I should grudge Dr Bird his coconuts. His scholarly instinct will have detected, from internal evidence, one uncomfortable fact, namely that my rendering is not, as a matter of history, a rendering from the new Roman text. It is a rendering from the Vulgate, corrected over the top so as to suit the requirements of the new Roman text. Not of my own choice, the process of correction was done in a hurry, and sometimes, through inadvertence, the original typescript has been left unamended. I am grateful to Dr Bird for calling my attention to three such passages, v. 12, xv, 2, and xlix, 11. *Habet confitentem reum.*

But Dr Bird's quarrel with me is not when I fail in what I am attempting to do; it is when I succeed. Precisely where I satisfy my own standards of translation, I cease to satisfy his. Nor, I am glad to say, will his candid temper allow him to throw out a vague charge of "paraphrase", and leave it at that. He has collected a set of instances to illustrate his thesis that "paraphrase and interpretation may lead us far away from the Latin", and invites the reader to "decide for himself". He does not say whether he regards them as typical or as salient instances; whether they are just a fair sample, or the pick of the bunch. But I know well—*et ego in Alexandria vixi*—how hard it is at the last moment to lay your hand on that particularly glaring passage where the other fellow did *really* give himself away. No doubt Dr Bird has "twenty-nine distinct damnations, one sure if another fails"; but he has only put down nine on the charge-sheet, and I must be content with those. To comment even on a

handful of texts will be to indicate the line of defence on which I would urge the reader to take a lenient view.

(i) *Servite Domino in timore et exultate ei; cum tremore praestate obsequium illi, ne irascatur et pereatis de via* (ii, 12). "Tremble, and serve the Lord, rejoicing in his presence, but with awe in your hearts; kiss the rod, do not brave the Lord's anger and go astray from the sure path." It will be noticed at once that I have deserted the punctuation of the new Latin text. But I am assured by a Scriptural expert that it would be a new departure if a particular punctuation of Holy Writ were prescribed with any binding force; and since nothing has been said, I am hardy enough to transpose the comma and the semi-colon. *Praestate obsequium illi* is not the simple thing it looks, and I wonder whether I am the person who has been paraphrasing? The Greek has "grasp instruction tight"; hence our old *apprehendite disciplinam*. But the Hebrew has "kiss the son", or (if that can be made to mean anything) "kiss sincerely". Some ingenious person has suggested that the Psalmist wrote "kiss his feet", and a note appears to indicate that the compilers of the new version adopt this reading. But they do not translate *osculamini pedes eius*, as you would expect; why? Presumably because they dislike the idea of basing an authoritative rendering on a scholar's guess. So they paraphrase. They give you a rendering which quite certainly is not a word-for-word rendering of what the Psalmist wrote; they give you a general idea of submissiveness, and leave it at that. Now, we have an excellent English way of putting that "kiss the rod"; it preserves the word "kiss", which quite certainly is in the Hebrew, and links up the sense with the *virga ferrea* of verse 9. It was not a temptation I could resist.

After that, the sentence wants breaking up; we mustn't have people calling our sentences "clumsy". And we must avoid the change of subject inside a dependent clause, which makes awkward English. Thus "lest he be angry and you get lost out of the path" becomes "do not brave his anger and go astray from the path". The *Dominus* of the old version was left in by mistake; I am delighted to get rid of it. The "sure" path I kept on purpose, not so much because there is a lot to be said for the Greek reading here (cf. Briggs ad loc.) as because it sounds better and adds, in reality, nothing to the sense.

(ii) *Deducit me per vias rectas propter nomen suum.* "By sure paths he leads me, as in honour pledged" (xxii, 3). *Via recta* is not, I think, a dead-straight line; no guidance is needed to shew a man that; it is the road that gets you there safely (I Esdras viii, 21; Jer. xxxi, 9). What is meant by "for thy name's sake"? The ordinary Bible-reader thinks, wrongly, that it is a kind of vague adjuration. It means, throughout the Old Testament, "because otherwise thy reputation will suffer (as being unable to afford thy promised protection)". To reduce that to short compass, and soften down slightly what seems to us a bargaining tone, I have written, "as in honour pledged".

(iii) *Attollite, portae, capita vestra, et attollite vos, fores antiquae, ut ingrediatur rex gloriae.* " Swing back, doors, higher yet; reach higher, immemorial gates, to let the King enter in triumph" (xxiii, 7). Let the reader, before he condemns me, ask himself what picture this verse conjures up in his mind? "The ancient doors," says Delitzsch, "are to open themselves high and wide." Yes, tell a door to swing itself wide, and we all see at once what is meant; but there is nothing here about swinging *wide* at all. The doors are to "lift up their heads", and it is no use translating "lintels" instead of "heads"; how on earth can a door lift up its own lintel? Lifting up one's head is plainly a Hebraism for becoming higher; which suggests to me the figure of some great door (of a College, for instance) with a smaller opening cut away at the bottom, which admits the ordinary visitor; on state occasions the whole door must be opened, from ground to arch. I may have got the wrong impression, but at least I have got an impression; has anybody else? "Immemorial gates" gives the meaning of the Hebrew "gates of eternity"; then why not change "King of glory" into "triumphant King" or its equivalent? The word "of" in English inevitably suggests that glory is the realm over which the king rules, and that is surely not the intention of the Hebrew.

(iv) *Bonus et rectus est Dominus, propterea peccatores edocet viam.* "How gracious the Lord is, how faithful, beacon-light of sinful souls" (xxiv, 8). Yes, I am inclined to think I have put too much into that; "guide" would have been enough, without trying to be over-picturesque. Thank you, Dr Bird.

(v) *Et dilatant contra me os suum, dicunt, Vah! Vah! oculis nostris*

vidimus. "See how they mop and mow at me, crying out, Joy, joy that we should have lived to see this!" (xxxiv, 21). The translator of the Old Testament is always being held up by the differences between Jewish gesture and ours. We hiss in disapproval, but not in derision or in astonishment; we slap our thighs at the dawning of a new light on our minds, not in agonized grief, and so on. An Englishman making faces at an unpopular figure does not "open his mouth wide". But the dictionary gives a quotation "drawing her mouth an inch and a half wider than ordinary, and mopping at him", and "to mop and mow" is good Byron. I think it will have to stand. "Joy, joy!" is good Moore, and though I am not fond of it, I cannot better it. Why not "Aha! Aha!" asks Dr Bird, or "Well done, well done!"? But "Aha!", outside Bible-English, is a form of roguish expostulation, not of triumph; "Well done!" implies a performer, and who is the performer in question here? I notice that Dr Bird, in his own translation, gives, "Vah! Vah! Our eye hath seen", but does this *mean* anything? The Hebrews talked of "seeing" in the sense of gloating over a spectacle; our nearest equivalent is "living to see the day" when some desirable thing happens.

(vi) *Rivus Dei repletus est aquis, parasti frumentum eorum; ita enim parasti eam.* "From that deep channel whence thy divine ordinance provides our human needs" (lxiv, 10). I hope Dr Bird is not objecting to "channel"; the new Psalter, in correcting *flumen* to *rivus*, has given *peleg* its true pipe-line significance. For the rest, the verse is utterly obscure. "Thou hast fixed up their [whose?] corn, for so [how?] thou hast fixed it [what?] up." Must we interpret it as a hopeless tautology, "Thou dost fix up their corn, for it is by fixing it up that thou doest fix it up"? ("Corn", too, is masculine, and "it" feminine.) Or must we interpret it as a pointless antithesis, "Thou dost fix up their corn, for it is by fixing up the corn that thou dost fix up the earth"? No wonder if the more unscrupulous editors reject the last clause as dittography; no wonder if the Prayer-book version, by a heroic paraphrase, gives the rendering "for so thou providest for the earth".

The compilers of the Authorized Version rightly saw that the channel has got to be connected with its surroundings,

instead of being sealed off at both ends, if you are to get a real translation; "(thou greatly enrichest it) *with* the river of God which is full of water"; I have imitated them. "Of God" sins against the principle that, in an English sentence, the same subject cannot be alluded to both in the second and in the third person; hence "divine". But "divine channel" will hardly stand; the epithet must be deferred till later. It seems certain that "of them" refers to the human race in general, although its grammatical antecedent is perhaps the dwellers at the world's end, mentioned in verse 9. Since all the rest of the psalm is in the first person plural, I have tried to simplify matters by talking of "our" human needs. So much for the general strategy of the sentence; my conscience is not so clear about having reduced the untranslatable third clause to the single word "ordinance". Perhaps there is room for a fuller rendering; "from yonder deep channel, divine source of our human nourishment; such care thou hast for us", or something of that kind.

(vii) *Deus assurgit in concilio divino, in medio deorum judicium agit.* "See where he stands, the Ruler of all, among the rulers assembled, comes forward to pronounce judgement on the rulers themselves!" (lxxxi, 1). The holy Angels are not in question here; the context alone would warrant us in the belief that there was a Hebrew usage which referred to human judges as "gods". We have no such usage in English; consequently, the translator is faced with a strict choice between paraphrase and polytheism. I have chosen paraphrase. The new Psalter's *concilio divino* allows for, without necessitating, the interpretation "assembly of God", i.e. Israel (Barnes). In spite of the singular noun given by the Massoretic text, this seems improbable; the rulers are not those of Israel, but those of the surrounding nations (Briggs, Boylan). The context shews that when Almighty God is represented as holding assize "in the midst of" the rulers, they are to be regarded not as His co-assessors but as prisoners on their trial (cf. Ps. cix, 2).

(viii) *Nam illic, qui abduxerant nos, rogaverunt a nobis cantica, et qui affligeabant nos, laetitiam: Cantate nobis ex canticis Sion!* "When the men who took us prisoner cried for a song. We must make sport for our enemies; A stave, there, from the music they sing at Sion!" (cxxxvi, 3). Here I confess I rubbed my eyes, and

looked about in some bewilderment for the cause of offence. My crime, I suppose, is to have used the word "stave"; the kind of word Dr Bird cannot endure, because it is not in common use among our contemporaries. But we are not discussing, here, proprieties of English usage; the complaint was that I had not translated the Latin. Have I not? The reader must decide for himself.

(ix) *Dominus bellator est: Dominus nomen eius.* "Javé, the warrior God, Javé, whose very name tells of omnipotence!" (Cant. Mos. Ex. xv, 3). In a handful of instances I have felt it necessary to transliterate the Tetragrammaton; Jehovah to our ancestors, Yahweh to our contemporaries. I have made it into a Latin word, to match all the other names in the Old Testament; the Latins had no initial Y, and no W; they did not use H after a vowel. So I have written Javé, with an accent to deter the refectory reader from making it rhyme with "brave".

Yahweh is a name; "the Lord" is a title. Or, rather, it is a religious euphemism; it dispenses you from the necessity of pronouncing a Name too holy to be pronounced. We have the same instinct in ordinary conversation; we avoid the Holy Name of Jesus, and substitute the title "Our Lord" instead. It would be perfectly conceivable to publish an edition of the New Testament which substituted "Our Lord" for "Jesus" in most contexts: "Then our Lord was taken up by the Spirit into the wilderness", and so on. But if we read "She will bear a Son, whom thou wilt call our Lord", the result would be grotesque. And it is equally grotesque to read, in the Old Testament, "whose name is the Lord". It is not a name, it is a title. Hence, in rare contexts like the present, I have preserved the Tetragrammaton.

But there is worse to follow. When you have said, "Javé, whose name is Javé", you have not said anything. It is not even a tautology, it is a strictly identical judgement; and an identical judgement has no meaning at all except when idiomatically used. "Eighty-two is eighty-two" has no meaning. "Boys will be boys", or "East is East and West is West", means something because we are using an accepted English idiom; we are understood to mean that persons of immature age will behave in an immature manner, and so on. And evidently the Hebrews were

using a Hebrew idiom when they uttered the apparent truism, "Javé's name is Javé". It is not difficult to see what kind of thing they meant. If someone used the words "Our Holy Father Pope Pius XII; his name is Pius", we should guess he meant that the Holy Father was a man of piety, true to his name. But it would not be an English idiom. Curiously (as so often) you can nearly match it from American slang; if an American says "Discretion is my middle name" he is claiming to be, notoriously, discreet. But it is not English.

The translator, then, has to find a way of indicating, in English, that the God who is called Javé possesses the qualities which that name implies. To the Englishman there is nothing in a name; a rose by any other name would smell as sweet; but to the Jew it is *nomen et omen*, it implies the presence of qualities. Traditionally, of course, Yahweh implies eternity first and foremost; Reuss translates it, invariably, "l'Éternel". But the Vulgate Latin seems to take a different view; avoiding, most unexpectedly, the tautology of the original, it gave us *Dominus quasi vir pugnator; omnipotens nomen eius*, as if to suggest that omnipotence was what the name Yahweh implies. I translated accordingly, "Javé, whose very name tells of omnipotence".

The new Psalter, true to its word-for-word principle, substituted *Dominus* for *Omnipotens*, and the formally identical judgement returned to us. What was I to do? Write "Dominance" over the top instead of "Omnipotence"? Or replace it by "Eternity"? On the whole, I decided to leave the verse as it was. The significance of a name need not depend, after all, on mere etymology; a name may imply any quality that is habitually associated with it. And for sixteen centuries the *ecclesia orans* had been associating the Divine name with omnipotence. One thing I could not bring myself to do—inform the casual English reader that the Lord's name is the Lord.

"It was the wish of the Supreme Pontiff," Dr Bird reminds us, "that the new Latin translation should combine a faithful rendering of the original texts with a careful regard, as far as possible, for the venerable Vulgate and the ancient versions. How far this faithful rendering can be preserved in a paraphrastic translation is open to question." I know, but who said anything about preserving it? An artist is about to paint my

portrait; he asks me to send him a photograph. I sit to Messrs Bulbsqueezer, and implore them to produce a faithful likeness, to spare me nothing. Do I thereby lay it down that the artist's portrait must be indistinguishable from a coloured photograph? The new Latin Psalter was produced for the benefit of ecclesiastical persons, whose second mother-tongue is that Hebraeo-Roman dialect which we call "ecclesiastical Latin". In that dialect, naturally, the new Psalter was written; it would have been fantastic to write it in the idiom of Cicero or Tacitus; the Romans are dead, and only a handful of scholars would have appreciated its flavours. Does it follow that when a vernacular translation is produced, for the English-speaking public at large, it must needs be written in the Hebraeo-Romano-Britannic dialect which I call "Bible-English"? Must the common Englishman be forbidden to share the aspirations of King David, clothed in living language, because Dr Bird would have done it otherwise?

But I must return to wrestling with Zachary. *His plagatus sum in domo eorum qui diligebant me.* . . .

R. A. KNOX

NICHOLAS OF ST ALBANS AMONG THE PROPHETS

SAINTE ALBANS ABBEY in Hertfordshire, from its foundation by Offa, the pious King of Mercia, about the year 793, to its suppression in 1539, occupied a very prominent position in the Church and State of England. Its pre-eminent status obtained official recognition when Pope Adrian IV gave it the right of precedence over all other English abbeys. And to this primacy of rank corresponded the magnificence of its church and the splendour of its liturgical services. But its greatest glory lies in the fact that during the 750 years of its existence under a succession of worthy abbots, several of them renowned for sanctity and erudition, it seems to have suffered no serious

decline of religious fervour and to have exercised a beneficent influence, spiritual and cultural, on the life of the nation. In particular, it seems to have been a chief source and centre of devotion to Our Lady. Thus we find Abbot Geoffrey (1120-46) ordaining that the Feast of her Conception be kept with special solemnity. His immediate successor, Abbot Gubium, instituted a weekly procession in her honour. Abbot John founded a Mass of Our Lady in St Mary's of Hertford. The pious and scholarly Abbot de Whethsamstede made provision for a select choir of trained and salaried singers who sang her Masses with organ accompaniment, and he spared no expense in the decoration of the Lady Chapel.

It was in the time of Robert, successor to Gubium, that a young cleric of Langley, named Nicholas Breakspeare, applied for the habit, but, being found deficient in the necessary qualifications, was put off for a year. He did not return. When he next met Abbot Robert, years after, the rejected postulant bore the style and title of Adrian IV.

Royalty often claimed the hospitality of St Albans guest-house, which had a special apartment for reigning queens, the only ladies allowed within the enclosure. King John of France, taken prisoner at the battle of Poictiers in 1355, spent the time of his captivity as the guest of the monks. Apart from periods of impoverishment, due to wars and other accidents, the wealth of the Abbey was in proportion to its dignity, for prelates and princes vied with each other in adding to its possessions and privileges. And lest anything should be lacking to its prosperity, it was given for its chronicler the celebrated scribe known as Matthew of Paris.

It seems incongruous that with so many sons of outstanding merit the Abbey's honoured name should be particularly associated with one whose merit, to say the least of it, is not evident to all. We refer to Nicholas of St Albans. This writer's fame, in fact all that we know of him, rests upon his correspondence¹ with Peter Cellensis, then abbot of the Benedictine monastery of St Rémy, Rheims, and later bishop of Chartres. Of the letters addressed by him to Peter, the first, written soon after the martyrdom of St Thomas Becket, probably therefore at

¹ Cf. Migne: *Patrol*, T. ccii, Ep. clxix, clxii, clxxii.

the beginning of 1171, has unfortunately been lost, but its contents can be deduced from Peter's answer. Nicholas defends the Feast of the Conception, criticizes St Bernard's attitude thereto, declaring that by his opposition the holy Doctor had pierced anew the Virgin's heart, taxes the whole Order of Citeaux with busying itself about trifles, and affirms Mary's immunity from temptation: "Virgo victus omne peccatum, non omne debet lando, sed nullum prorsus sentiendo."

In his reply Peter begins by contrasting English levity with French sobriety! He believes the mobility of the element that surrounds them has somehow communicated itself to the character of the Islanders! He then asserts that he has even more zeal for Mary's honour than his correspondent. "Tu contendis honorare Conceptionem, et ego praedestinationem ac totam eius retro progeniem. . . . Mallem certe non habere linguam quam aliquid dicere contra Dominam nostram. Ante eligerem non habere animam, quam vellem eius extenuare gloriam." But though individuals may freely follow their inclinations in the practice of private devotion, it belongs to the supreme Pontiff alone to regulate the public worship of the Church. Bernard has need of no apologist: his reputation, his works, his writings, his miracles, his virtues—in short, everything about him—bear witness to his sanctity. He is Mary's most intimate confidant, and to attack him is to wound her in the apple of her eye. As to Cistercian frivolities, "nugae Cistercensium", he knows the white monks are distinguished for their gravity and unworldliness, for their love of silence and seclusion, for their laborious and mortified lives, for their devotion to penance and prayer, for the salutary reform they effected in the Benedictine family to which both himself and his correspondent belong: if they have any other frivolities, he for one has never heard of them. Finally he meets the assertion that Mary was immune from temptation by pointing out that temptation is the condition of merit: "Tolle pugnam, tolles et victoriam. Tolle victoriam, tolles et coronam." Besides, if being tempted was not incompatible with the infinite dignity of the Son, much less can it have been so with the finite dignity of the Mother.

These observations provoked a lengthy polemic from Nicholas. Reluctantly, and only to prove that malice was not the

motive of his attack on St Bernard, he reveals an interesting fact which he had hoped to keep secret. Shortly after the holy Abbot's death, he appeared to one of his lay-brothers, clad all in white save for a black spot on his breast. When the brother in amazement asked the meaning of the unsightly patch, he was told it symbolized the punishment the Saint had to endure in Purgatory in atonement for his language about Our Lady's Conception. The vision was set down in writing and communicated to the Cistercian Abbots assembled in General Chapter. But these, more concerned for Bernard's reputation than for Mary's honour, ordered its suppression. Some friends of the seer, disappointed and disgusted at such iniquitous conduct, brought the story to Nicholas. And so we have it. In publishing it, so far from injuring Bernard, he is actually doing him a service, since the holy Abbot's object in appearing to the monk was evidently to manifest to the world the wrongfulness of his opposition to the Feast of the Conception. This object, hindered by the perversity of the Cistercian General Chapter, Nicholas is now helping him to attain. But nothing will ever induce the good man to disclose the names of his informants: it would mean persecution for them at the hands of their fanatical fellow-monks. Needless to say, no reference to the vision is found in the Acts of the Cistercian General Chapter, recently published in seven large volumes, or in any other work independent of the St Albans version.

Nicholas next explains that when he affirmed Mary's immunity from temptation he meant temptations of the flesh. He dwells upon this point at great length and expresses himself with a degree of coarseness and irreverence that is simply shocking. We are left in doubt, he says, as to the time when the Virgin was emancipated from the power of concupiscence: whether at her Conception, or her Nativity, or at the Annunciation. But of so much we can be certain, that she was always free from the motions of concupiscence, "by the incapacity of nature until her twelfth year, thereafter through the influence of grace". Nowhere does he proclaim or imply her exemption from original sin. Rather the contrary, for he declares that the only difference between her and other holy virgins (apart from the Divine Maternity) is that she never experienced the rebellion of the

flesh: "quae praerogativa distinctio inter singularem virginem et alias sanctas virgines si peccatum sensit ut aliae, sed non consensit sicut nec aliae?" He has already explained what he means here by "sentire peccatum": "id est, sentire culpam peccati, more nostro legem membrorum sentire, motus pudendos sentire, picem titillationis sentire et inquinata esse ab ea."

Peter's answer to this precious epistle has a very special importance in the history of dogma, for it contains what we believe to be the first formal and explicit enunciation of the doctrine of the Immaculate Conception:¹ "Credo, dico, assero et iuro beatissimam virginem nostram, in aeterna praedestinatione singulari privilegio munitam, nec a sua conceptione nec in aliquo violatam, sed semper mansisse illibatam." Nevertheless he refuses to observe the Feast of the Conception until it has obtained the official sanction of the Holy See: those who do otherwise act like the utterers of counterfeit coin. The shocking language employed by Nicholas in relation to objects so holy grieved and disgusted honest Peter. He will not soil his pages by quoting it: "Compator insolentiae tuae, qui de excellentissimis Virginis montibus ad profundissimam vallem descendisti, ne dicam corruisti . . . Parco epistolae meae tua inserere verba."

A third letter from Peter to Nicholas, manifestly of much later date than those already discussed, has been mistakenly put before them by Migne, and so escaped the notice even of authors like Vacandard. From this we learn that the scribe of St Albans has been reported dead, and Peter rejoices at the falsity of the report. He refers to their controversy ("altercationis dudum inter nos habitae") about the Feast of the Conception, and hopes the danger of death has brought Nicholas to recognize and correct an error due rather to excessive zeal than to

¹ We find the doctrine affirmed in terms almost as formal in a work entitled *De Conceptione B. Mariae Virginis*, now attributed to Eadmer, St Anselm's friend and biographer. But this very fact makes the attribution doubtful, because the treatise *De Excellentia B. Mariae*, which is certainly from Eadmer's pen, contains the opposite teaching: "Teneremus fide, ab omni, siquid adhuc in illa originalis sive actualis peccati supererat, ita mundatum cor illius, ut vere super eam Spiritus Domini requiesceret" (c. iii); that is, at the moment of the Incarnation, Thurston's attempt to reconcile the two positions, or rather to explain the discrepancy, viz. that Eadmer feared to avow his belief in Mary's sinlessness during Anselm's lifetime, besides being improbable in itself, does as little honour to Eadmer as to Anselm. The doctrine is also clearly proclaimed in the sermons of St Amedeus, the intimate friend and disciple of Bernard of Clairvaux.

malice—that he has escaped from spiritual as well as from physical death.

It is only in comparatively recent times that Nicholas has come to be regarded as a champion of the Immaculate Conception. Mabillon († 1707) testifies that down to his day *all* identified Nicholas of St Albans with Nicholas of Clairvaux, the infamous forger and apostate who brought so much sorrow to the heart of St Bernard and caused so much scandal in the Church. As Manriquez puts it: the two (if two) agree in name, age, state, style, talent, taste, and impudence. They also agree in antipathy to St Bernard and the Cistercian Order. Nevertheless we think Mabillon has sufficiently shown the falsity of such identification. Peter's correspondence proves that the St Albans monk was an Englishman with whom he had no personal acquaintance, whereas Nicholas of Clairvaux was French and a one-time intimate. So we have to abandon that easy explanation of Nicholas's animosity. Perhaps he fell under the influence of his contemporaries, the writers Giraldus Cambrensis and Walter Map, whose hatred of the white monks found expression in the most outrageous and unscrupulous slanders. Certainly the phrase "nugae Cisterciensium" has a Cambrenian sound. That his letters to Peter did not represent the mind of his community may be inferred from the fact that Matthew of Paris, who is so careful to record everything of importance to the prestige of the Abbey, completely ignores them and their author, whereas he speaks in the most eulogistic terms of Bernard and his brother Cistercian, Archbishop Henry of York. And St Albans could hardly forget that it owed a charter of privileges to the Cistercian Pope, Eugenius III.

It may be asked how Nicholas understood the Conception, the celebration of which he so fiercely defended. Likely enough, in the active sense, as St Bernard understood it, and as it was generally understood at the time. But even if he believed the object of the Feast to be the passive Conception, that would not necessarily imply his belief in Mary's immunity from original sin, for the principle that the Church only celebrates what is holy had not yet won universal acceptance: a feast in honour of the Baptist's Conception was then kept in some Eastern dioceses. In any case Nicholas has made it clear that he recog-

nized no such immunity in Our Lady, whose first and distinguishing prerogative, he tells us, was her freedom from carnal concupiscence.

Under 1228 we find an interesting fact chronicled by Matthew. In that year the Patriarch of Armenia visited St Albans. Asked if the Feast of the Conception was kept in his country, he replied that it was, because it was held to have been miraculous : "celebratur utique, quia, angelo nuntiante Joachim dolenti et desertum tunc inhabitanti, ipsa conceptio facta est".

AILBE J. LUDDY, O.CIST.

SUMMA INGENUITAS . . . SERVITUS CHRISTI

AFTER two world wars the word slavery leaves a bitter taste in our mouths. But our discussion in this article is not whether we like the word or not, but what significance it had in the beginnings of Christianity. It will appear that the early Christians felt that the Slavery of Christ is not only a true description of our condition, but also one conferring the highest honour.

In Our Lord's time there were no servants, as we understand the word, but only slaves and free men or freedmen ; that is, emancipated slaves. In St Paul we find the principle laid down quite clearly that in Christianity there are no free men or freedmen. We were slaves of the devil : as Christians we become slaves of Christ. This dichotomy leaves no option of a third alternative. It is merely a choice between slaveries.

For this idea the *locus classicus* is Romans, chapter vi, where the refrain "slavery-manumission" sounds like a dominant, or like Chaucer's "stiff burdoun" (Prologue, 1673). The relevant words are taken from Monsignor Knox's translation, with some alteration to bring out the sense of the Greek.

16. "You know well enough that wherever you give a slave's consent, you prove yourselves slaves of that master ; slaves of sin, marked out for death, or slaves of obedience, marked out for justification.

17. and you, thanks *be* to God,
18. although you were the slaves of sin once, you were manumitted from the bondage of sin, and became slaves of right-doing instead.
19. Just as you once made over your natural powers as slaves to impurity and wickedness, till all was wickedness, you must now make over your natural powers as slaves to right-doing, till all is sanctified.
20. At the time when you were slaves of sin you were manumitted from right-doing.
22. Now you are free from the claims of sin, and have become God's slaves instead."

The argument, in a word, is as follows :

You must be slaves, either of sin or of righteousness or justice.

You were slaves of sin.

But having been emancipated or manumitted from sin

You are slaves of righteousness or justice or God.

This is the only real freedom.

On these principles St Paul proclaimed himself the slave of Christ and of God in the opening of three of his epistles, as being a title of which to be proud.

Phil. i, 1. Slaves of Christ Jesus.

II Tit. i, 1. Slave of God.

Rom. i, 1. Slave of Christ Jesus.

As Our Blessed Lady, using the same word, described herself as the Slave-girl of the Lord.

To illustrate further the currency and familiarity of these two ideas among early Christians, namely that we have not become independent, but have merely changed ownership, and that by purchase like slaves in the open market, here are three more passages :

I Cor. vi, 19. "You are not your own property, for you were bought in the slave market, expensively.

I Cor. vii, 22. He who is free in civil status, when he is called to become a Christian is the slave of Christ.

I Cor. vii, 23. You were expensively bought in the slave market.
Do not become slaves of men.

II Pet. ii, 1. Repudiating the slave-owner who bought (you) in the market."¹

St Paul and St Peter are not, of course, the first in the field. Our Blessed Lord Himself said : "No man can be a slave to two masters" (Matt. vi, 24).

This means, as the context shows : "No man can be a slave to both masters." That is, he has to be a slave to one, but the two slaveries are mutually exclusive.

Therefore, either he will hate the devil and love God : or he will put up with the devil and, as both cause and effect, despise God. In other words, he must be a slave to one, not both : but, anyhow, a slave.

Our Lord also said : "He that gathereth not with me, scattereth. He that is not with me is against me." There are no neutrals and no independents. It is the same dichotomy, or dilemma, as St Paul's. But the origin of the idea goes further back still. We have seen that the rival "slave-owners" are sin, uncleanness, lawlessness and righteousness, justice, God. Now, in Genesis (iii, 15) is set out the delimitation of this rival ownership. On the one hand is the devil and his brood, on the other the woman and her seed ; that is, the Mirror of Justice and the Sun of Justice. There is no room for onlookers.²

Passing on now to the third century, from Sicily we have a sidelight showing how deeply embedded in the Christian consciousness was the idea that the slavery of Christ was the noblest kind of freedom.

In A.D. 25 St Agatha is on trial, and the Praetor, who has his own reasons for being ruthless, tries to shame her out of her Christianity by an appeal to class-consciousness : as our Victorians used to say : "You are behaving like a kitchen maid."

When St Agatha says in her deposition, "I am free-born and of good family, as my pedigree bears witness", the following exchanges, slightly modernized, are recorded :

¹ See also Rom. xii, 11 ; Gal. iv, 8, 9 ; Eph. vi, 7 ; Col. iii, 25 ; I Thess. i, 9 ; I Tim. vi, 2 ; Tit. iii, 3, etc.

² Pope Pius XII, broadcasting to Fatima on 13 May, 1946, said : "In this difficult hour of history the forces of evil are employing all their efforts to destroy Faith, morality and the Kingdom of God. . . . In this struggle no one can be neutral." The *Daily Mail* reporter, after exhaustive enquiry into Communism and possible Christian rivals, stated the same unequivocal conclusion.

Praetor. "If you are well-born why do you behave like a slave?"
 Agatha. "Because I am the slave-girl of Christ: that's why!"

The slavery of Christ implies being free-born in the highest degree. *Servitus Christi . . . summa ingenuitas.*"

And in the sixth Nocturn lesson the same theme appears in its original form, as taken down at the trial :

Praetor. "Are not you, born of good family, ashamed to lead the lowly and servile life of a Christian?"

Agatha. "The lowliness and slavery of Christ are far nobler than the pomp and circumstance of kings."

It is quite clear from the context that the antithesis is between social pride of birth and the condition of slavery. St Agatha insists that to be a slave of Christ is a condition far superior to the most exalted social standing. Such was the connotation of Christian slavery to the early Christian Church. Moreover, the reading of these Nocturn lessons and antiphons every February as the feast came round would act as a kind of liturgical reminder of the ideas expressed by SS. Peter and Paul above. Is it not because we have forgotten these contexts that the word slavery jars on modern ears?

There is no such squeamishness in the Catechism of the Council of Trent. As St Marie-Louis de Montfort has pointed out,¹ it gives this injunction to pastors of souls :

"Parish priests will encourage the faithful to grasp the idea that it is only strict justice if we enrol and consecrate ourselves as slaves for ever—nothing less—to our Redeemer and Lord" (par. I, c. iii, sect. 12).

And it was, as de Montfort also points out, because the baptismal vows express the now familiar dichotomy, service of Christ or service of the devil, that Louis le Débonnaire through the Council of Sens sought to encourage Christians to renew their baptismal vows in order to stem the contemporary decay in Christian belief and practice.

With these precedents in mind we should find nothing unreasonable in the notion of slavery as the description of our

¹ *True Devotion*. Ed. London, 1937, p. 80.

Christian condition. Whether we like it or not, we are "expensively bought slaves" of Christ.

Very well, the critic may reply, but we cannot admit the term as applied to Our Lady. She did not buy us. To which the answer is simple, threefold, and dating back at least as far as the seventh century.

1. The very title Our Lady expresses her dominion over us.
2. Our Lady was intrinsically associated with our redemption.
3. All honour paid to her passes on to her Son.

That is the answer St Ildephonsus worked out all those years ago.¹ His forthright statements still await their due consideration. No historian of Mariology can afford to by-pass them. Here is a brief summary of his threefold reply:

- (1) Our Lady is *Domina, Dominatrix, Dominans* because she is *Mater Domini, Ancilla Filii, Genitrix Factoris mundi*.

In consequence St Ildephonsus offers the one service, or slavery, to both Our Lord and Our Lady.

He tells Our Lady:

"I am thy slave, because thy Son is my Lord!
Thou art My Lady as being the Handmaid of the Lord!
I am the slave of the Handmaid of My Lord, because thou,
My Lady, hast been made mother of My Lord!"

- (2) Mary is to St Ildephonsus "opus redemptio meae" because she is "opus incarnationis Dei mei".

For "quod in mea redemptione . . . est operatus, in tuae (Mariae) personae veritate formavit".

- (3) Moreover, to be a slave of Mary is proof of being slave of Christ. He prays, "Let me be a slave to Thy mother, that by this Thou mayest prove me to have been a slave to Thee. Let Mary have dominion over me that so I may know that I have pleased Thee. Let Mary's dominion hold me (in thrall) for ever, that Thou mayest be My Lord for ever. I desire to be the slave of the mother who bore Thee, that I may be the devoted slave of the Son who was born."

And he prays that this slavery of Mary may exist for ever. "May I be kept in slavery to her for ever. Never may I be dissociated from the pleasure of such an eternity."

¹ The texts and translation were given in THE CLERGY REVIEW, May 1946, but their significance needs underlining.

All this because there is no division in the dominion of Master and Mistress. "The slavery to the Handmaid is referred to the Lord. What is given to the mother redounds to the Son. What is shown in the Nurse is repeated in the Nursling. Attendance upon the queen passes as honour to the King."

And finally, St Ildephonsus picks up the phrases of St Agatha in asserting that the slavery of Christ, and, for him, of Mary, is the highest title of social standing. He calls it "the noblest title of freedom: the illustrious condition of free birth: the glorious ascription of nobility".

In short, those who feel moved to express themselves as slaves of Christ, and of Mary, have some very respectable precedents.

We may conclude with a brief answer to some comments made, or possible, on the line of thought traced above.

- (1) Our Lord called His apostles not slaves but friends (John xv, 15).
- (2) This slavery business savours of Jansenism. Our Lord revealed the devotion to His Sacred Heart to demolish all that.

The answers are:

- (1) What Our Lord actually said was, "*I no longer call you slaves*". That is, I am going to stop calling you slaves, indicating a change of status from their existing one, of slaves, to something higher, because they now shared His secrets.

But St Peter and St Jude, and especially St Paul, even after that, took pride in calling themselves slaves of the Lord.

- (2) So far is the idea of slavery from being opposed to the idea of love, that it is used regularly by lovers, even in secular literature.

And when the Son of God wished to express the love of the Blessed Trinity in terms intelligible to mankind, what did He do?

"He emptied Himself, taking the form of a slave" (Phil. i, 7).

AMBROSE AGIUS, O.S.B.

THE MONTH OF MARY

DIGNARE me laudare te, virgo sacra! "Count me worthy to praise thee, hallowed Virgin!" Not that any man can of himself be worthy for the task, but even as our Heavenly Father reckons us worthy of grace and glory, not as taken simply in ourselves, but as identified with His only-begotten Son, so also, being thus one with Him, we cannot but praise the Mother whom He chose and fitted for Himself and for us. To praise her is to praise Him, because all her dignity comes from Him, the dignity of being the Mother of God, and the dignity of all those graces and privileges which were bestowed upon her in view of this sublime office in the economy of the Incarnation.

This is the month which popular devotion dedicates to her honour, a popular devotion which we must encourage and share. We must not presume upon our position to hold aloof from devout practices dear to the body of the Catholic faithful and approved by the Church. Almighty God has no use for superior persons, any more than man has. In the Church in general, as in religious life (in the words of *The Imitation*), he who seeks special things loses what is common. Rather let us become as little children, in order that our Blessed Mother may bring us safely to our heavenly home, to contemplate for ever the divine glory of her Son and her own.

Cardinal Newman has drawn the lesson from our English May: not necessarily pleasant in itself, or the harbinger of a delightful summer to follow. We must perforce be prepared for whatever may come; and in the spiritual life we renew our trust in the Queen of May, because she is able and willing to see us through whatever may await us. "Train thyself in piety," writes the Apostle to Timothy, "for whereas bodily training is profitable for little, piety is profitable for all things, possessing promise of life both here and hereafter" (I Tim. iv, 7-8). The foremost place in our piety belongs to the Blessed Trinity and to Our Saviour, but among creatures to the Blessed Virgin, appointed by God to be the mother not only of the Incarnate Word, but in Him of ourselves also. Piety to her too possesses promise of life both here and hereafter.

Only hereafter shall be realized all that we owe to her benevolent interest. So it is sometimes also (is it not?) with earthly mothers : as children we may have taken more or less for granted so much that was the object of their loving care—food, clothes, health and the rest, even piety itself—and it is only later, perhaps too late, that we realize at all adequately the immense debt which we owe to them. Their greatest reward, perhaps, has been the entire trust which we have placed in their love. Such a trust also we must place in our Mother Mary.

This trust, this piety, must not be merely a personal trait, but a corporate devotion, even as our devotion to our Blessed Lord must not be one of merely personal faith and love, but a corporate union through our membership of His Church, His mystical Body, humbly subject to her teaching and rule and ministry. As we are born children of wrath, subject to original sin and lust by reason of our corporate unity with Adam (how rightly Mgr Benson used to object to the phrase “born Catholics” !), so also from the side of the Saviour, dying upon the Cross, came forth His Church, eternally to be one with Him in a unity into which Baptism has inserted us, and in virtue of which His Mother is ours, and we her adopted sons, as we are also, through an immeasurably greater privilege, the adopted sons of God.

We must not look upon devotion to Our Lady, therefore, as no more than an idle sentiment, becoming and beautiful perhaps, but with no practical bearing upon our own or others' lives. History itself refutes such an idea, and is acknowledged even by non-Catholic historians to do so. It was largely devotion to Our Lady that taught the rough men of the Middle Ages to follow St Peter's exhortation to pay reverence to woman as to the weaker vessel (I Peter iii, 7), and taught the women themselves to set a high value upon chastity in the single or married life. Few things, indeed, would serve better to restore a Christian standard of purity and modesty to the country than a true feeling of piety toward the Virgin-Mother, if only there were enough Christian faith upon which to build it up. We live in an age of shameless licence, and there is money in catering for it in periodicals and entertainments and the rest. To preserve our Catholic children from the infection, so far as with God's help it

may be done, there is no surer means than a profound and practical devotion to their great model of purity. Like so much that the multitude of non-Catholic modernists rejects, such a product of Catholic faith as this devotion can stand up far better than any of their own idols to their own supposed test of religious experience. Incidentally, it also stands up best to the test of Holy Scripture, fulfilling as it does Our Lady's own prophecy that all generations should call her blessed.

The foundation and ultimate reason of Our Lady's position in the divine scheme and in the Church is the fact that she is Mother of God, an article of the Catholic faith accepted by the Universal Church as set forth by St Cyril of Alexandria. It has sometimes been thought necessary that she should have been a virgin; we can see that this was very fitting, and to her an added glory, but it cannot be shown to have been essential to the Incarnation. Mary is Mother of God because she gave birth to the human Body of Christ. The ordinary human mother does not produce the soul of her son; because she has borne the body she is mother, not merely to the body, but to the human person as such. About that all mankind are agreed. And Mary is Mother of God, Mother of the Second Person of the Blessed Trinity, Mother of the Word made flesh, because she gave birth to His Body: not mother merely of that Body, or of that Human Nature, but of the Divine Person who assumed them.

Eius gesta, eius festa, cole devotissima. "All her feasts, her actions worship." Seeing that God Himself has so honoured her, it becomes us also to recognize that honour gratefully, since it was bestowed ultimately for our sakes, and it becomes us to add our own little tribute to the love and praise whereof heaven and earth are full.

The Immaculate Conception is the very opening of the story, venerated as such at once in heaven, but doubtless quite unknown at the time upon earth. This privilege of our dear Mother has an especial claim upon the devotion of this country, because the English Franciscans and Grosseteste worked so much in its defence in early times. And when at last the doctrine was defined, Our Lady was swift to respond, confirming alike the truth of the dogma and the infallibility of the Sovereign Pontiff, the latter displayed upon that occasion by a decisive act

which had no quite complete parallel in history. And from her seat in Lourdes the Virgin-Mother still confirms alike the dogma and the infallibility, for all who have eyes to see and ears to hear and a heart to understand.

The recitation of the holy rosary is very ancient in the Church, and takes us over most of the chief episodes in Our Lady's life. Instead therefore of attempting the impossible task of telling the whole story, it will be enough to recall the devotion as a practice universal in the Church and very dear to it. We contemplate the mystery, trying to present it in a simple picture to ourselves, with Our Lady one of the actors in the scene, and addressing ourselves to her. In some countries it is a recognized practice to insert in the Hail Mary some definite allusion to the mystery under consideration; for example, "blessed is the fruit of thy womb Jesus, who was born for us", or "who was crucified for us". This is a very helpful practice, but I do not know that it is anywhere done with the English Hail Mary, and therefore I am not advising it; but it is in this spirit that we shall probably find it easiest and most devotional to say our beads. We can think of all that the Passion would mean to Our Blessed Lady without supposing that she was looking on at each single event; she pondered each in her heart, at all events when she learnt of it, and we can ponder it with her.

At the close of her earthly life comes her Assumption, which (it seems) may possibly be defined. There can be little doubt that it is, as theologians say, definable. Taking the Assumption to mean essentially that Our Lady's body was taken up into heaven without seeing corruption, it is a doctrine that has long been accepted and celebrated without any serious opposition having been made to it, and it is even a holiday of obligation in the Universal Church. It is right, therefore, to believe that Our Lady is in heaven both body and soul. Such a dignity befits her who is queen of heaven and earth; something would have been wanting to that dignity if she had still been awaiting her glorified body.

Our Lady has now come to be honoured explicitly as the mediatrix of all graces; it is a pious belief, with good foundations in tradition, that she has been granted a share in the obtaining of them. This does not mean, of course, that God

originally did not intend to grant a grace, and only did so after she had intervened with her intercession. That is an objection that can be made to the intercession of any saint. Whether it be Our Lady or whether it be a saint that wins us a grace, it is not won by making God change His mind. But our Heavenly Father has instituted and approved the communion of saints, and wishes His children upon earth to be helped by those who have gone before them into heaven, and prefers His saints to take some part in the dispensing of His graces, rather than to reserve the granting of them exclusively to Himself. In that co-operation to which He invites the heavenly court, Our Lady has an especial place, both in the universality and in the power of her intercession. Here, too, she realizes the divine plan in her regard, and magnifies the Lord, because He hath had regard to the lowliness of His handmaid. Understanding in general and in particular the part which Almighty God intends her to play, she prays as and when she knows it to be His will. Nor does this impair the position of Our Lord as the one Mediator in a totally different and absolutely fundamental and essential sense, inasmuch as it is in virtue of His atoning sacrifice of Himself that all graces are granted, and it is this sacrifice which He continues to the end of time to offer to the Father in Heaven in order to secure them, ever living to make intercession for us.

In the Church of God there are innumerable associations of all kinds carrying on their good lives and their good works under the patronage of our Blessed Lady. In this her month they make a special effort to renew their zeal and efficiency, to prepare themselves for still greater efforts and sacrifices, to secure an even larger measure of success in the purpose they have set before them. We may well pray for a blessing upon all the Catholic activities thus consecrated to Mary, and do our best according to our opportunities and with proper discretion to encourage them. But just as faith is declared by the Council of Trent to be the foundation and root of all justification, so a correct and full understanding of Catholic Mariology—full in a relative sense, according to the possibilities of those concerned—should underlie all that is done in the name of the Blessed Virgin Mary. We must look to the root and trunk, no less than to branches and blossoms, and ever more so, because the inward

duty is more easily neglected than the outward. Together they form the perfect work, the most acceptable offering to Mary in this her month.

CUTHBERT LATTEY, S.J.

NOTES ON RECENT WORK

I. HOLY SCRIPTURE

IN that attractive and stimulating work by the late Abbé L. C. Fillion entitled *L'Etude de la Bible: Lettres d'un professeur d'écriture sainte à un jeune prêtre*,¹ of which no more than a mutilated edition has appeared in English, the author, a most learned and experienced teacher, was moved to hand on to his young colleague some advice on the building up of a scriptural library, which he had himself received from his master, M. Vigouroux, the former secretary of the Biblical Commission. It was, it must be allowed, the sort of advice that young men receive with a respectful air, and, none the less, frequently disregard. The young professor was told that he ought to buy only those works which were recommended either by their authors' names or by impartial reviews; to be in no great hurry to possess books as soon as they were brought to his notice, and so to avoid many regrets; to beware of having too many books on the same subject, failing some quite special reason to the contrary; and, first and foremost, to remember that a book not actually required for the study of the moment will probably achieve a later and improved edition, and that this will be all the more acceptable at the time when it is really needed. Such advice was, doubtless, opportune in the untroubled and unhurried days before the first world war. Nowadays, in these times of paper shortage and of small and infrequent editions, it may be as well not to be too sanguine about the likelihood of speedy republication, and, if possible, to buy any book of recognized value during the brief period of its availability.

In these circumstances one may recommend those who are interested in such things to lose no time in buying the recent

¹ Paris, Letouzey & Ané, 1922, pp. 302 ff.

reissues of two standard textbooks, each of which has not less than twenty-five years of service to its credit. The first to be mentioned is the "editio septima de integro retractata" of the *Praelectiones Biblicae ad usum scholarum* by the late P. Hadrian Simón, C.S.S.R. The sub-title is *Novum Testamentum, Vol. I. Introductio et commentarius in quatuor Jesu Christi Evangelia.*¹ This volume, the first to be published in the original series, which now includes a volume on Biblical introduction and two volumes on the Old Testament, was first published in 1920, and was reissued in a revised and enlarged edition in 1924. The third (1926) edition differed very slightly from that which preceded it. Even so, it was a substantial volume of nearly seven hundred pages, which appeared to discuss all or most of the more important passages in the four Gospels, and to give, in addition, much introductory matter on the Gospels, the political and religious condition of Palestine in the time of Christ, with some chapters on the Jewish religious parties, the Sanhedrin, and Israel's expectation of a Messias.

Now, under the editorship of Padre G. G. Dorado of the same Congregation, the work has greatly increased in size, and has, in particular, taken on a wealth of footnotes and bibliographical references. Excellent as these are, and clearly distinguished from the large print of the text, it may be wondered whether the ordinary student will not feel overwhelmed by so much erudition. In the work of the Abbé Fillion already mentioned the author speaks somewhat harshly of some young professors. "Oublant qu'ils n'étaient chargés que d'une classe élémentaire," he writes, "il se transformaient presque en professeurs d'Université" (p. 298). They might reply that, when armed with such a textbook as the latest edition of Simón, they had every encouragement to make a minute, and even meticulous, examination of the Gospel text and its background. They might also maintain that so ample a treatment would serve the same purpose as the immense bulk of the fourth volume (*Les Évangiles*) by MM. Lusseau and Collomb, the joint-authors of the *Manuel d'Etudes Biblique*.² These industrious compilers (one of whom, M. Collomb, lost his life in the late war), in their

¹ Turin, Marietti, 1947. Pp. xliv + 1066. Price 1900 lire.

² Cf. THE CLERGY REVIEW, Vol I, pp. 531-2.

introduction to the first (1932) edition, claimed that their intention was to save their readers a great deal of note-taking in lecture, and to enable them, after ordination, to have at their elbows the means of being fully informed without recourse to costly and difficult *œuvres de haute spécialisation*. At any rate, there can be no doubt that specialists in Holy Scripture will find this most recent edition of Padre Simón's excellent manual a mine of information, replete with the title of books and articles, many of them of recent date. So, to take a single example, there is a long footnote (n. 6, p. 957) on the site of the *praetorium*, with references to Père Hugues Vincent's articles in the *Revue biblique* for 1933 and 1937, to his work on *Le Lithostroïos d'après des fouilles récentes* (Paris, 1933), and to books and articles by Pujol, Buzy, Prat, Perrella, Vosté and Ricciotti. It is noted, in conclusion, that J. Jeremias in ZntW, 31 (1932), 307-12, disputes the result of the excavations. A few omissions have been remarked, particularly in regard to English works. For example, the short paragraph on p. 215 on the Herodians should have taken account of the article "The Herodians in the Gospels" by Professor H. H. Rowley, *Journal of Theological Studies*, Vol. XLI (1940), pp. 14-27.

The second standard work to be recently republished is the late Dom Hildebrand Höpfli's *Introductio Specialis in Vetus Testamentum*, of which the fifth edition "ex integro retractata" was edited in 1946 by Dom Athanasius Miller and Dom Adalbertus Metzinger, each of whom, as was the lamented author, is a member of the professorial staff of Sant Anselmo.¹ There is a short account of Dom Höpfli's career in the third volume of the *Supplément au Dictionnaire de la Bible*, which pays fitting tribute to his immense learning, and his clear and animated manner of lecturing. Born at Ledau in Bohemia in 1872, he passed the greater part of his life as a professor at Beuron, and, from 1903 onwards, in Rome, and died on 14 February, 1934. He held various appointments as consultor of the Biblical Commission, the Index, and the Congregation for the Eastern Church, and was a qualificator of the Holy Office. His manual in three volumes, bearing the general title of *Compendium introductionis in*

¹ Rome, Editiones Comm. A. Arnodo, Via della Palombella, 1946. Pp. xxvi + 600. Price 16s. 6d.

sacros utriusque Testamenti libros, was first published at Subiaco in 1921; a second edition, better printed and in other ways improved, followed in 1925. The present (fifth) edition was completed some years ago, but could not be printed, owing to difficulties of war-time production, until 1945–6. It has already had the distinction of being reviewed by the director of the *Revue biblique*, Père de Vaux, O.P., and some attention will be given to that review in the present notice.

By comparison with the relatively thin little book (of only three hundred and thirty pages) of the 1925 edition, the present volume is altogether larger and more comprehensive. It remains a manual, though an exceedingly detailed and well-documented one, and much of Dom Höpf'l's original text has been retained as a core round which much new matter has been grouped. The literature cited has been made as complete as possible up to the end of 1944, "in quantum", write the authors, "hoc ob perturbationes belli nobis licebat". About a quarter of the book (pp. 1–121) is devoted to the subject of the Pentateuch and its criticism, whereas a trifle more than half that number of pages sufficed for the 1925 edition. The main divisions remain much the same with a slight rearrangement. There is a short section on the name, argument and division of the Pentateuch, and this is followed by the always most valuable "principia generalia quoad originem librorum sacrorum", and then by the positive arguments in favour of the Mosaic authorship. Then comes a long section given over to the higher criticism of the five books, and, finally, a sixty-page "discussio critici Pentateuchi". Perhaps the most interesting section in this last part is the appraisal of the philological and literary bases of Pentateuchal criticism, which includes subdivisions on the names of God (on which the authors insist upon the unreliability of the criterion, even in cases where the text is wholly reliable), on the linguistic criteria (concerning which stress is laid upon the difficulty of accurately judging the various stages in the development of Hebrew), and on the matter of doublets, the occurrence of which is conceded in the case of the Flood narratives.¹ The conclusion of the whole

¹ Cf. especially pp. 80–2. It is not quite fair to say, as Père de Vaux does on p. 441 of his review, that Eissfeldt's *Laienquelle* is introduced without warning on p. 80, to the confusion of the student who does not already know of this supposed source. Actually a brief account of the L source is to be found on p. 64 (§70).

matter is that Moses himself wrote the greater part of the books ascribed to him, but that there is no reason for excluding the existence of various glosses, interpolations, and later additions properly so called. Examples of these are certain concluding formulas, such as that of Lev. xi, 46 ff., general reflections, explanatory glosses, observations on geography, certain historical narratives, commandments inapplicable in the time of Moses, and various new laws, such as that of Deut. xvii, 14-20.

I should agree with Père de Vaux that the remaining historical books are treated less fully and far less satisfactorily. It is astonishing that S. R. Driver's *Notes on the Hebrew of the Books of Samuel*, with its intensely interesting introduction to the Hebrew text and ancient versions of Samuel, and the companion volume on Kings by C. F. Burney, are not even mentioned in the bibliographies.

One of the two revisers, Dom Miller, is the author of short commentaries on Tobias and Judith in the *Bonner Bibel* (1940), and the discussion of these books, in particular of their historicity, is masterly. On the serious difficulties with regard to the facts related in the book of Esther the authors strive to show that there are answers to these objections, and refer to Herodotus and Dio Cassius for proof that massacres on an immense scale were all too common in the ancient East.

Apropos of the authorship of Ecclesiastes, it is interesting to compare Dom Höpfl's relative caution regarding the Solomonic authorship with the revisers' uncompromising statement, after a review of the traditional arguments: "Nihilominus dicendum est, Salomonem non esse auctorem libri nostri" (p. 329). They are less positive with regard to the author of the Canticle of Canticles.

In the treatment of the prophets, Isaías has, very naturally, the largest amount of space given to any one in particular. The arguments for and against the unity of the book are clearly set out, and the chief conclusion (by way of prelude to the Commission's decree of 28 June, 1908) is that the question is difficult to resolve in a wholly satisfying manner. "Certe multa et gravia argumenta stant pro origine isaiana, quin tamen omne dubium criticum effugare possint" (p. 423). On Daniel the authors accept a *via media* between tradition and modern non-Catholic

criticism. The book as we have it is not composed by the prophet Daniel himself, but is the work of an unknown author, not later than 300 B.C., "tamen ex fontibus antiquissimis" (p. 482).

These are but a few of the main findings of a work which is, in every way, a credit to Catholic biblical scholarship.

JOHN M. T. BARTON, F.S.A.

II. ASCETICAL AND MYSTICAL THEOLOGY

SEVERAL books on the spiritual life, written specially for laymen, have been published recently. *The Inside of the Cup*, by Ferdinand Valentine, O.P.¹, continues the Theophila correspondence and is a sequel to *Whatsoever He Shall Say*, which we reviewed in these Notes in July 1947. The new series includes letters to Theophila and to her friend David. The main subjects treated are difficulties and trials in prayer and temptations against purity; but there are also letters on temptations to pride, the method of Christ and modern conditions, Retreats and spiritual direction, and the Cross. The wise, practical guidance and the balance of thought, feeling and imagination which were noteworthy in the first series are again evident in this. One might particularly recommend the letters on purity for their combination of supernatural doctrine and sound psychology. Laymen and laywomen who read this book and its predecessor thoughtfully will be much helped in finding and following the highway to union with God.

The laity (and priests who have to give talks to sodalities) can have no saner guide to the practice of the virtues than *The Everyday Catholic*, by Martin Harrison, O.P.². "This is a miniature and simple *Summa*," writes Fr Hilary Carpenter, O.P., in the preface, "for the work-a-day Catholic, for the tens of thousands of quite ordinary folk who are the pillar and support of the Catholic Church in this country. It is primarily meant for the busy mother of a family, for the hard-working father, for the tradesman, the business girl, rather

¹ Pp. 169 (Blackfriars Publications. 6s.).

² Pp. viii + 376 (Blackfriars Publications. 10s. 6d.).

than for the learned and the highbrow—though there is none that could not profit from its perusal.” There are seventy-six straightforward, practical and pleasingly written talks—dogmatic, sacramental, devotional, moral and ascetical—easily grasped and with the points all well made. It is a book to be thoroughly recommended.

Another book of direct help to laymen is *The Holy Rule for Laymen*, by T. F. Lindsay.¹ It may seem to some an unusual proceeding to apply the Rule of St Benedict, which was written for monks, to the spiritual ordering of a life in the world. But, as Cardinal Griffin points out in the preface, St Benedict framed his Rule on the ideals of family life. Hence, with such modifications as the different character of the two kinds of life require, the teaching of the monks’ Rule can be applied to the circumstances of a person in the world. That a layman—an Oblate of Prinknash—has done the commentary is a guarantee, provided the commentator has himself sufficient spiritual insight and formation, that the elucidations will be sound and practical. In this case the commentator has quite definitely the requisite competence for his task. The book follows the Rule section by section in a kind of discursive meditation suited to an earnest layman.

The laity, it seems, fear meditation. It is perhaps not unnatural that they should feel somewhat overawed when they dip into books of formal meditation, all set out in apple-pie order; they get, it may be, too strong an air of the cloister or the seminary in such books. Still, laymen who are to make a success of the spiritual life must in some way or other practise meditation. Meditative readings would perhaps meet their need. Such a book of meditative readings, from America, is *The Darkness is Passed*, by T. H. Moore, S.J.² The twenty-seven themes are taken in the main from Our Lord’s life and teaching, but the treatment is very fresh. “The Two Standards of St Ignatius” is, for instance, set out in a modern way. All the meditations are lively, interesting and to the point; and, to help the layman, there is throughout an effort to reconcile manliness and piety.

¹ Pp. xii + 160 (Burns Oates. 7s. 6d.).

² Pp. iv + 136 (Clonmore & Reynolds. 8s. 6d.).

*The Spear of Gold*¹ is a beautiful selection of texts on the soul's ascent to God. The compiler has roamed widely; his contributory sources include the Bible, many Christian writers of all epochs (most of them, but not all, mystics) and certain non-Christian mystical writers. The compiler, the jacket tells us, was for ten years from his ordination a chaplain to seamen at Bremerhaven and Hamburg; but in 1925 he was expelled by the Gestapo for alleged activities hostile to the Third Reich. Eventually he settled in the United States as a teacher of Doctrine and Scripture at Portsmouth Priory, Rhode Island, and began to write on the Liturgy and Christian Art. He dedicates his anthology to M. Jacques Maritain, a demonstration, like the collection itself, of Christian unity transcending national boundaries. The title of the anthology is taken from St Teresa's Vision, and a reproduction of the famous painting of the Vision, attributed to Velasquez, forms the frontispiece. The purpose of the collection is mystical, to show the landmarks and the turnings on the way to Heaven; but it is not a treatise on prayer; nor are the selections grouped under the familiar headings, but under others of a more striking and original character.

One or two criticisms may be made for the improvement of this fine book in its second edition. The subtitle, "Revelations of the Mystics", is misleading, since private revelations find no place in the anthology. The title of the works from which the selections are made should be given for ease of reference. There is a very useful index of authors and sources, including short biographical notices. But some of these notices are partly inaccurate. Newman, for instance, is styled "leader of the first Oxford (tractarian) Movement". A work of this kind cannot, of its nature, be complete; but certain writers in English whom one would expect to find are not included—Walter Hilton, for example, and Francis Thompson (*The Hound of Heaven* and *O World Invisible*).

Come, Follow Me, by B. F. Marcetteau, S.S.,² is an adaptation of *The Imitation of Christ* for use in mental prayer. The author

¹ Edited by H. A. Reinhold. Pp. xx + 386 (Burns Oates. 16s.).

² In two volumes. Pp. 109 and 306 (The Bruce Publishing Company: Vol. I. \$2.50; Vol. II, \$3.50. Both volumes together, \$5.75.).

considers that *The Imitation* is in its matter one of the best of meditation books, but the somewhat haphazard form in which it is arranged does not give it the point and conciseness which one looks for in such works. Fr Marcetteau has, therefore, reorganized it. His method is simple and attractive. In the first part of each meditation he considers the subject in Our Lord. In the second part he gives the relevant text of *The Imitation*, taking a section of a chapter at a time, and rearranging the order of the text where such rearrangement will bring out the meaning better. He follows Challoner's version, but with emendations. In the third part he makes a practical application of the subject. He concludes with a spiritual nosegay, as St Francis de Sales called it—a quotation from the New Testament, the Liturgy, or *The Imitation*, to serve as a reminder of the meditation during the day. Those who wish to use *The Imitation* for methodical meditation will find much help in Fr Marcetteau's two beautifully printed volumes.

Also from America comes a very different book, *Julianus Pomerius: The Contemplative Life*.¹ It is the fourth in the series of translations of the works of the Fathers which the Catholic University of America, Washington, is publishing under the general title, "Ancient Christian Writers". Until the seventeenth century this work was ascribed to St Prosper of Aquitaine. Little is known of the life of the real author, Pomerius. He was a native of North Africa who migrated to Gaul and opened a school of rhetoric at Arles, where his most famous pupil was St Caesarius of Arles. He became a priest and perhaps a monk, and there is contemporary testimony to the holiness of his life. He was, as the doctrine of *De vita Contemplativa* makes clear, an ardent disciple of St Augustine. He does not make any advance on St Augustine. Only in one point is his teaching original, at least in the West, namely in his stress on the combination of the active and contemplative life, which should characterize the episcopal and sacerdotal ministry; this was a doctrine he had learned from the School of Alexandria. The smoothness of his Latin style is not altogether maintained in the translation.

J. CARTMELL

¹ Translated by Sr Mary Josephine Suelzer. With copious Notes at the end of the volume and a very useful index. Pp. 220 (The Newman Bookshop. \$2.50.).

QUESTIONS AND ANSWERS

BLESSING OF VESTMENTS

May a parish priest, enjoying from canon 1304 the faculty, delegate one of his curates to bless vestments for use within the parish, e.g. for the use of a convent chapel served by the curate? (R.)

REPLY

Canon 199, §1. Qui iurisdictionis potestatem habet ordinariam, potest eam alteri ex toto vel ex parte delegare, nisi aliud expresse iure caveatur.

§2. Etiam potestas iurisdictionis ab Apostolica Sede delegata subdelegari potest sive ad actum, sive etiam habitualiter, nisi electa fuerit industria personae aut sudelegatio prohibita.

Canon 210. Potestas ordinis, a legitimo Superiore ecclesiastico sive adnexa officio sive commissa personae, nequit aliis demandari, nisi id expresse fuerit iure vel indulto concessum.

Canon 1304. Benedictionem . . . impertire possunt: . . .
 3. Parochus pro ecclesiis et oratoriis in territorio suae paroeciae positis, et rectores ecclesiarum pro suis ecclesiis. 4. Sacerdotes a loci Ordinarii delegati. . . . 5. Superiores religiosi, et sacerdotes eiusdem religionis ab ipsis delegati. . . .

Canon 1147, §2. Benedictio reservata quae a presbytero detur sine necessaria licentia, illicita est, sed valida, nisi in reservatione Sedes Apostolica aliud expresserit.

The Roman Ritual places the formula for blessing vestments amongst those reserved to bishops and others enjoying the faculty. Before the Code priests holding faculties from English bishops usually had this one for blessing vestments, but it was withdrawn in most dioceses after the promulgation of the Code. The question is restricted merely to the lawfulness of an unqualified priest blessing vestments, since it is happily clear from canon 1147, §2, that the act is valid.

(i) Some commentators hold that the parish priest may not delegate his faculties for blessing vestments.¹ They think it is

¹ Vermeersch-Creusen, *Epitome*, II, §633; *Periodica*, 1927, 29; Cicognani, *Appolinaris*, 1928, p. 65, and *Consultationes*, p. 165; Coronata, *Institutiones*, II, §§885.

rather the use of the power of orders than of jurisdiction, and that it is ruled not by the principles of canon 199 but of canon 210, which seems to exclude delegation in this instance. For the power of delegating is expressly given in nn. 4 and 5 of canon 1304, but no mention of it is found in n. 3. Some, moreover, will not even concede the use of canon 209 in this context, since in the first place it is not a question of jurisdiction, and in the second place the necessity of using canon 209 is removed by the provision of canon 1147, §2.¹

(ii) There is sufficient authority, however, for holding a more liberal view which recognizes the parish priest's power either to delegate, as in canon 199, §1, or to subdelegate, as in §2 of the same canon. For, notwithstanding canon 210, this power is ultimately reduced to that of jurisdiction, as Cappello maintains.²

It will be remembered that the Code Commission, 29 October, 1919, denied to parish priests the power of delegating other priests for confessions within their territory, even though the power in question is undeniably jurisdiction and is ordinary. It was denied for much the same reasons as those upon which the commentators mentioned in (1) rely, and some would anticipate a similar reply from the Code Commission if the doubt concerning canon 1304, 3 ever came up for a decision. In the meantime, in our opinion, the more liberal opinion may safely be followed.

GOOD FRIDAY COLLECTION FOR THE HOLY PLACES

Is it of obligation to make a collection on Good Friday for the Holy Places at the Adoration of the Cross on that day? (T.)

REPLY

Caerem. Epp. II, xxv, 25: Episcopus . . . demum Crucem osculatur: prius tamen offert, seu offerre facit in lancem, ibi positam, pecunias ad libitum.

¹ Cf. Beste, *Introductio*, p. 224.

² *De Sacramentis*, 1945, §§9.6. Cf. also in the same sense, *L'Ami du Clergé*, 1929, p. 357, and 1947, p. 682; Fanfani, *De Iure Parochorum*, §§41 and 338.1.

Leo XIII, *Salvatoris ac Domini*, 26 December, 1887; *Acta* (1893 ed.), III, p. 38: . . . decernimus ut Venerabiles Fratres, Patriarchae, Archiepiscopi, Episcopi et alii totius terrarum orbis locorum Ordinarii, sub sanctae obedientiae vinculo curare teneantur, ut respective in cuiuscumque dioecesis parochiali ecclesia, una saltem singulis annis vice, nempe feria sexta maioris hebdomadae, vel alio ad uniuscuiusque Ordinarii lubitum similiter tantum quotannis eligendo die, fidelium charitati sanctorum locorum necessitates proponantur.

Benedict XV, *Inclitum Fratrum*, 4 October, 1918; *A.A.S.*, X, p. 437, reaffirmed the order of Leo XIII.

The direction of *Caeremoniale Episcoporum* is found in *Memoriale Rituum* for small churches, earlier edition Part V, ch. ii, §2, 13. In the current edition of the *Memoriale* the direction is that the offering of money in a plate near the cross is to be made if it is customary. Some of the rubricists describing the rites of Good Friday include this offering of money, relying on the clear direction of *Caeremoniale Episcoporum*; others omit it altogether. The qualification of the current *Memoriale* is some justification for omitting the collection at this point, and to many it has always seemed undesirable.

Leo XIII records an obsolete direction of Pius VI in 1778 which required a collection for the Holy Places to be made four times a year. By associating the collection with Good Friday, saving the right of Ordinaries to fix some other day and time, the Leonine document does give some support to the idea that the liturgical collection of the *Caeremoniale Episcoporum* is a collection for the Holy Places, and Fr Thurston notes that the two things are commonly associated.¹

Actually, however, it seems to us that the two things are distinct, and that there is no certain obligation to apply the collection, if made at this point, to the Holy Places, unless the local Ordinary has so directed.

The collection, made on the day or by the method determined by the Ordinary, is sent through him to the district Commissariat of the Holy Land, whose officials are members of the Order of Friars Minor.

¹ *Catholic Encyclopedia*, IV, p. 105.

PREACHING DURING EXPOSITION

Am I right in maintaining that the normal rule forbids preaching during Exposition of the Blessed Sacrament, though it is tolerated for grave reasons provided the Monstrance is covered with a veil and the sermon is about the Holy Eucharist? (U.)

REPLY

S.R.C., 10 May, 1890, n. 3728.2: Num tolerari possit consuetudo exponendi SS̄num Sacramentum, et coram eo Missam celebrandi (occasione Novemdialis) in qua fit post Evangelium praedicatio Verbi Dei et plerumque de Sanctis; et in qua populus frequens accedit ad Sacram Synaxim? *Resp.* Affirmative; apposito tamen velamine ante Sanctissimam Eucharistiam, dum habetur concio.

The directions are all aimed at preventing the attention of worshippers from being deflected from the Blessed Sacrament, and as regards Mass and Holy Communion at the altar of Exposition some later directions, which are stricter than n. 3728, must be followed.¹

The Clementine Instruction, §32, strictly forbids preaching during the Forty Hours' Exposition, but departure from the rule is tolerated outside Rome, in fact so widely tolerated that many commentators rightly infer that, outside Rome, there is no law against it either during the Forty Hours or at other times.²

During the sermon a veil must be placed before the Blessed Sacrament, the common practice being to use one in the form of a small banner on a stand; but we know of no law forbidding the use of a veil of white silk covering the Monstrance. Even though the Monstrance is veiled the listeners should not turn their backs to the altar of Exposition,³ and if this is unavoidable owing to the position of the pulpit the sermon should be delivered from near the Sanctuary rails.⁴ The preacher wears a

¹ Nn. 4353 and 27 July, 1927; *Collationes Brugenses*, 1922, p. 325, and 1927, p. 380.

² Wapelhorst, *Compendium*, §200; O'Connell, *The Clementine Instruction*, p. 50.

³ Clementine Instruction, *ibid.*

⁴ Gasparri, *De Eucharistia*, §10, 45.

cotta but no biretta, and, as is customary outside Rome, a white stole.

Both the commentators already quoted, and other besides, state that the sermon must be about the Holy Eucharist. This is a reasonable direction, and during the Forty Hours' Exposition at least it seems required from the nature of things. It must be observed, however, that n. 3728, on which they all rely, tolerates sermons on the Saints, and we know of no later direction revoking it. Since occasions may arise when a sermon on a subject other than the Holy Eucharist is called for, we think it is not forbidden by the common law.

CONFESSiON OF PRE-BAPTISMAL SINS

Though not *necessary* matter, may one hold that pre-baptismal sins are *free* matter for absolution in the sacrament of Penance? Could an adult convert, baptized absolutely, receive a valid absolution by confessing solely pre-baptismal sin already remitted by Baptism? The faithful are accustomed to submit as *free* matter post-baptismal sins already remitted by absolution, and there seems no good reason why pre-baptismal sins should not also be submitted, as Prümmer appears to teach. Some colleagues, however, with whom I have discussed the point, maintain that pre-baptismal sin is not even *free* valid matter for absolution. (S.)

REPLY

Canon 870. In poenitentiae sacramento, per iudicialem absolucionem a legitimo ministro impertitam, fideli rite disposito remittuntur peccata post baptismum commissa.

Canon 902. Peccata post baptismum commissa, sive mortalia directe potestate clavium iam remissa, sive venialia, sunt materia sufficiens, sed non necessaria, sacramenti poenitentiae.

Conc. Trid., Denz. 807: Etenim pro iis, qui post baptismum in peccata labuntur, Christus Jesus sacramentum instituit poenitentiae....

894: . . . sacramentum videlicet poenitentiae, quo lapsis post baptismum beneficium mortis Christi applicatur.

911: . . . sacramentum pro fidelibus, quoties post baptismum in peccata labuntur.

Prümmer, *Theol. Moralis*, III, §321, a: Peccata quae ante baptismum commissa sunt . . . nunquam sunt materia necessaria sacramenti poenitentiae, etiamsi baptismus est sacrilege susceptus, ac proinde nunquam adest stricta obligatio ea confitendi.

The case of an adult convert conditionally baptized on being reconciled to the Church is excluded from this discussion; neither do we touch upon the teaching of many authors who recommend a voluntary confession of pre-baptismal sin as an exercise in humility; nor do we deal with the various explanations justifying the practice of submitting again for absolution sins in general already absolved. But assuming, as we must do, that post-baptismal sin already remitted is valid though not necessary matter for a fresh absolution, we have to examine whether the same may be said of pre-baptismal sin.

(i) The manuals do not, except by implication, deal with this point, but a complete and satisfactory account may be seen in *Collationes Brugenses*, 1927, p. 115, in which Canon V. Coucke shows that, though not *de fide*, it is quite certain that pre-baptismal sin is neither necessary nor free valid matter for absolution in the sacrament of Penance. It cannot be denied, indeed, that God could have given to the priesthood, had He so wished, power to remit sins committed by the unbaptized, but actually He has ordained membership of the Church as a necessary means for salvation, from which it follows that the power of remitting sin can be exercised only upon those who are subjects of the Church by Baptism, which is the gate opening upon all the other sacraments. A penitent, though at the moment a member of the Church, who desires freely to submit to the power of the keys sins committed before membership, is presenting matter for judgement to a tribunal which is not competent to deal with it. "Why should I claim jurisdiction over those who are without? No, it is for you to pass judgement within your own number, leaving God to judge those who are without."¹

¹ *I Cor. v, 12, 13* (Knox).

(ii) Prümmer in no way departs from this teaching, for in the context he is dealing with *necessary* matter, and is explaining the mode by which pre-baptismal sins are eventually remitted when baptism has been unfruitfully received owing to a conscious *obex*: the sin of sacrilegiously receiving baptism must be confessed and absolved, whereupon the reviviscence of baptismal grace causes the remission of pre-baptismal sin. By stating that there is no strict obligation to confess the latter, an unwary reader might conclude that their confession is free. The following sentence, however, makes it clear that these sins are not even free valid matter: "Ratio est quia ista peccata commissa sunt eo tempore quo Ecclesia nondum habuit in hunc peccatorem iurisdictionem atque potestatem absolvendi." In the following §322 the usual teaching is given about *free* matter, namely that it is restricted to post-baptismal sin whether mortal or venial.

AGGRIEVED PETITIONER'S REMEDY IN MARRIAGE CAUSES

The diocesan tribunal, after examining the facts alleged, declines to allow a case of marriage nullity to proceed. What is the remedy for the aggrieved parties? (X.)

REPLY

Canon 1709, §1. Iudex vel tribunal, postquam viderit et rem esse suae competentiae et actori legitimam personam esse standi in iudicio, debet quantocius libellum aut admittere aut reiicere, adiectis in hoc altero casu reiectionis causis. (Incorporated in *Provida*, art. 61.)

§3. Adversus libelli reiectionem integrum semper est parti intra tempus utile decem dierum recursum interponere ad superius tribunal: a quo, audita parte, et promotore iustitiae aut vinculi defensore, quaestio reiectionis expeditissime definienda est. (Incorporated in *Provida*, art. 66, which adds: exclusa appellatione ad normam canonis 1880, n. 7. §2. Si tribunal superius

libellum admittat, causa remittenda est pro eius definitione ad tribunal *a quo*.)

(i) The well-informed faithful are nowadays aware of the fact that a marriage may be declared null by a competent ecclesiastical tribunal, but they do not usually appreciate the necessity of producing adequate proof in support of the contention that a marriage is invalid, nor are they aware of the complexity of the process and the amount of time and labour to be expended by the court in completing it. Therefore the law provides for a preliminary review of the case and the evidence adduced, permitting the tribunal straightway to reject the *libellus* accusing a marriage of nullity; if this rejection is based, for example, on the inadequacy of the evidence offered, the *libellus* may be amended and presented again, as in §2 of canon 1709, and *Provida*, art. 62. Lest, however, the tribunal should unjustly reject a *libellus*, the aggrieved party may have recourse to a higher tribunal, which has the power to reverse the decision of the first. This tribunal of recourse is either that of another diocese or the Rota.¹

(ii) If the tribunal of recourse also rejects the *libellus*, *Provida*, art. 66, quoting canon 1880, n. 7, directs that no further "appeal" is permitted. The decision is definitive and the cause is finished so far as the *libellus* in this instance is concerned. Most of the commentators we have consulted do not indicate the petitioner's remedy against the second rejection. It appears that the only course is to start all over again with a fresh *libellus*,² and since its fate would be a foregone conclusion if sent again to the same tribunal, there is no reason why it should not be presented either to another competent tribunal, as in *Provida*, art. 3 and 11, or to the Holy See, as in canon 1603, §2.

ECCLESIASTICAL SUPERIOR: PAPAL ENCLOSURE

Is the ecclesiastical superior, the Ordinary's delegate, forbidden to enter the enclosure of religious with solemn vows?
(A.)

¹ Thus Doheny, *Canonical Procedure in Matrimonial Cases*, p. 139.

² Kealy, *The Introductory Libellus*, p. 76.

REPLY

Canon 600. Intra monialium clausuram nemo . . . admittatur . . . exceptis personis quae sequuntur :

i. Ordinario loci aut Superiori regulari, monasterium monialium visitantibus, vel aliis visitatoribus ab ipsis delegatis licet clausuram ingredi dumtaxat inspectionis causa, cautoque ut unus saltem clericus vel religiosus vir maturae aetatis eos comitetur . . .

S.C. Relig., 6 February, 1924; *A.A.S.*, XVI, p. 96. III, 2 (b). Pro sola igitur visitatione *locali* peragenda visitatori clausuram ingredi licet. Visitatio *personalis* extra clausuram ad crates fieri debet. Nec Ordinario aut superiori regulari aut visitatori extra actum visitationis ratione officii clausuram ingredi fas est.

(c) Causa explorationis, quae ante vestitionem et utramque professionem ab Ordinario loci vel eius delegato fieri debet, nec non pro electione antistitiae, Ordinarius loci aut eius delegatus clausuram ingredi non debet (can. 506, §2; 552, §2).

There are some communities of religious women who, by their rules and constitutions, make profession of solemn vows, but by papal indult are permitted to make simple vows only.¹ These nuns, though *moniales* in other respects, are not subject to the very strict rules of papal enclosure contained in canons 597 and following;² the simpler enclosure of religious Congregations, as in canon 604, applies to them, and their superior may admit any persons for a just and reasonable cause. In the last few years, certain communities have returned to the condition of making solemn profession. It is for the ecclesiastical superior to discover in each case what the status of the nuns really is : if they have made profession of solemn vows, the rules of papal enclosure automatically follow unless relaxed by a papal indult.

It is quite clear from *S.C. Relig.*, 6 February, 1924, that the ecclesiastical superior, namely the Ordinary's delegate, may not enter the enclosure on the business of his delegation except for the purpose of a local inspection, and even then he must be

¹ For the origin of this situation cf. *THE CLERGY REVIEW*, 1931, I, p. 658.

² *Code Commission*, 1 March, 1921.

accompanied by a cleric or religious of mature age. Local inspection covers such matters as oratories, if there are any within the enclosure, or seeing that the buildings are kept in proper condition.

The ecclesiastical superior is subject to the censure *l.s.* of canon 2342, 1, like any other person entering the enclosure without permission.¹

ADULTERY IN THE IMPEDIMENT OF CRIME

Is an act of intercourse with contraceptives considered adultery in the meaning of the word used in defining the impediment of crime? (C.)

REPLY

Canon 1075. *Valide contrahere nequeunt matrimonium: l. Qui perdurante eodem legitimo matrimonio, adulterium inter se consummarunt et fidem sibi mutuo dederunt. . . .*

Any sexual infidelity on the part of married persons has the moral deformity of adultery, since in addition to the unlawful sexual pleasure there is injustice towards the innocent party. Considered, however, as one of the constituents of the rather intricate canonical impediment of crime, it is certain that the act must be of the kind required for the consummation of marriage, as described in this REVIEW, 1948, XXIX, p. 51. Contraceptive intercourse may, indeed, be a graver sin, but the law constituting the impediment, being of a penal character, must be strictly interpreted, and the doctrine that there is no impediment unless the adultery is an act of natural intercourse is firmly established in the teaching of canonists, e.g. Gasparri: "Praeterea impedimentum non oritur, nisi adulterium fuerit consummatum per copulam perfectam, quae constat penetratione membra virilis in vaginam mulieris ibidem verum semen immitentis"² It is sustained also in

¹ Schaefer, *De Religiosis*, §355, and the commentators generally.

² *De Matrimonio* (1932), §673.

Rotal judgements, e.g. "Adulterium autem, ut nuptiarum nullitatem inducat, debet esse *perfectum*, idest peractum per copulam ad prolis generationem per se aptam".¹

E. J. M.

ROMAN DOCUMENT

**ABBATIAL DIGNITY FOR A PARISH PRIEST
SACRA CONGREGATIO CONSISTORIALIS**

TARVISINA

DECRETUM

COLLATIONIS TITULI ABBATIALIS (*A.A.S.*, 1947, XXXIX, p. 635).

Inclita Ordinis S. Benedicti familia, decimo vertente saeculo, exstructo abbatiali monasterio, locum incoluit qui nunc vulgo *Monastier* nuncupatur; ibique omnium bonarum artium, potissimum in commodum ruricolarum, per plura saecula altrix providentissima extitit, ita ut hodiernus pagus ex eodem monasterio ortum sumeret et nomen mutuaret. At, proh dolor, cum per Italiae regiones neapoleonica vexatio grassaretur, monachis dispersis bonisque abbatiae usurpati, priscus monasterii splendor evanuit. Cuius tamen monumentum usque ad nostra tempora superfuit ecclesia abbatialis, quae clero Tarvisinae dioecesis cum cura animarum concredita fuit. Haec quidem vetus abbatialis ecclesia anno 1918, bello magno saeviente, bellicis offensionibus graviter laesa et paene diruta est.

Nunc autem, arte et decore insignis, in pago *Monastier* nova ecclesia paroecialis, sumptu magno fideliumque oblationibus aptiorique in loco, a fundamentis est excitata.

Quibus expositis Excfhus P. D. Antonius Mantiero, Episcopus Tarvisinus, a Sanctissimo Domino Nostro Pio Divina Providentia Pp. XII expostulavit ut nova ecclesia paroecialis praedicta eiusque pro tempore rector seu parochus *titulo abbatiali* condecoraretur.

Quapropter Beatissimus Pater, hisce omnibus mature perpensis, oblatas petitiones benigne excipiendo esse censuit ideoque ne perantiquae olim insignis abbatiae nomen et a monachis O. S. B. egregie gestorum memoria pereat, atque ad ostendendum signum

¹ R. D., XVI, 1924, p. 174, coram Florczak.

Suae peculiaris benevolentiae erga Clerum et populum pagi *Monastier* ob bene merita in aedificatione novae ecclesiae paroecialis, eandem ecclesiam illiusque parochum pro tempore existentem *titulo abbatiali* in perpetuum decorare dignatus est.

Insuper de consulto Sacrae Rituum Congregationis, Abbati-Parocho ut supra memorato, durante munere et intra fines dioecesos quae sequuntur privilegia libenter indulxit :

(1) Titulo *Monsignore* coherestari.

(2) Habitum praelatitium coloris violacei in sacris functionibus gestare, idest caligas, collare, talarem vestem cum cauda numquam explicanda, sericam zonam cum duobus flocculis pariter sericis a laeva pendentibus, et palliolum seu mantelletum, supra rocchetum; insuper nigrum biretum flocculo ornatum coloris violacei; pileum item nigrum cum vitta serica, opere reticulato exornato eiusdem coloris violacei; rubini autem coloris erunt et serici: ocelli, globuli, exiguis torulus collum et anteriores extremitates vestis et mantelleti exornans, eorum subsutum, itemque reflexus (paramani) in manicis (etiam rocchetti).

(3) Alio habitu, Romanae Curiae praelatorum proprio vulgo *piano* appellato, uti in conventibus, solemnibus audientiis ecclesiasticis et civilibus: idest caligis et collari violacei coloris, veste talari nigra cum ocellis, globulis, torulo ac subsuto, ut supra, rubini coloris, serica zona violacea cum laciniis pariter sericis et violaceis, peramplo pallio talari item serico violaceo, non undulato, absque subsuto aut ornamentis quibusvis alterius coloris, ac pileo nigro cum chordulis et sericis flocculis violacei coloris. Communi habitu incedens, caligas et collare violacei coloris ac pileum, ut supra dicitur, gestare.

(4) Habere presbyterum adstantem in Missis solemnibus cum cantu.

(5) Tandem palmatoria uti (a qua tamen abstinentum coram Ordinario vel maiori) in Missis cum cantu vel etiam lectis cum aliqua solemnitate celebranda; item in Vesperis aliisque solemnibus functionibus.

Quibus super rebus Sanctissimus Dominus praesens edi iussit Decretum perinde valitum ac si super iisdem Apostolicae sub plumbo Litterae datae forent.

Ad haec executioni mandanda Sanctitas Sua deputare dignata est Excmum P. D. Antonium Mantiero, Episcopum Tarvisinum, cum facultatibus necessariis et opportunis ad effectum de quo agitur, etiam subdelegandi virum ecclesiasticum in dignitate constitutum, cum onere quam citius ad hanc S. Congregationem Consistorialem mittendi authenticum exemplar actus peractae

exsecutionis. Contrariis quibusvis minime obstantibus etiam peculiari mentione dignis.

Datum Romae, ex Aedibus S. Consistorialis Congregationis,
die 25 Martii 1947, in festo Annuntiationis B. Mariae Virginis.

Fr R. C. Card. Rossi, *a Secretis.*

BOOK REVIEWS

Ways of Confucius and of Christ. By Dom Pierre-Célestin Lou Tseng-Tsiang. Translated by Michael Derrick. (London, Burns Oates, 1948. 10s. 6d.)

It is with great pleasure that I see the appearance of the English version of Dom Pierre Lou Tseng-Tsiang's small but very important book *Souvenirs et Pensées*. In it the distinguished author describes his political career, beginning as a young diplomat in St Petersburg, finally attaining the position of China's Minister for Foreign Affairs. It was during his stay at St Petersburg that he met Mlle Berthe Bovy, a Belgian lady whom he married in 1899. Before she died he had embraced her Catholic faith, the first step on the way that finally led him to accept his priestly vocation. These opening chapters, well written and highly interesting, are the prelude to the most important part of his work: "The Christian vocation of my country".

We stand at the present moment at the threshold of a new missionary age. Here is a light which heralds the dawn of that new age; here is a trustworthy guide with whom to tread Eastern roads within the Church, the only way for possible success in the future. Dom Celestine points in the right direction. No longer can we be satisfied with a presumptuous criticism of other religions by long outmoded apologetic methods. We should rather be intent on the search for, and the reverent resetting of, the many divine jewels of the primeval revelation which are to be found in Eastern religions. These jewels should be cleansed from the dust and exposed to the brilliant light of the Gospel. This is the way for the missionary of the future. May all missionaries listen to Dom Celestine when he says in his foreword:

I gladly agreed to a suggestion made to me that the English edition should appear under a title directing attention to the providential ways which I have been led to follow: *Ways of Confucius and of Christ.* For it was indeed Confucianism which guided me towards Christianity and finally even to the Catholic Church.

For others this can hold true of Buddhism and Hinduism as well. See, for example, *To Christ through the Vedanta*, by P. Johanns, S.J.

How humble and edifying is the spirit which makes this former Minister of the world's greatest country, say:

We Catholic priests do not wish to and cannot place ourselves above the ministers of any other religion, but we wish—with Jesus Christ, with the Virgin Mary who remains standing at the foot of the Cross while her Son, insulted and mocked, died there—we wish only to sacrifice ourselves that our people and all peoples may enter into a clear understanding of the spiritual kingdom of peace and of holiness to which God calls all men, to give them all the gift of happiness on earth, by the knowledge and the practice of that spiritual life whose blessedness death consecrates and makes eternal.

And it is worth while to listen with attentive ears to what the distinguished author has to say about the liturgy in Oriental garments:

In so far as among us, the Catholic liturgy will have been unable to adopt the Chinese literary language, the sacrifice of the Mass, the Divine Office, the liturgy of the Sacraments, the admirable Catholic liturgy of the dead—will remain an absolutely closed book for the yellow race. The people of the Far East cannot become acquainted with it; they cannot, therefore, feel the need of it, nor conceive a desire for it; and, in consequence, they have no normal means of taking any advantage of it whatsoever. In default of that measure of adaptation which I believe to be the prerequisite of all important apostolic action, in five hundred or a thousand years evangelizing efforts will not have modified in any considerable fashion the very small proportion represented by the number of Christians and of Catholics in a population which will itself have increased beyond its present numbers in proportions which it is vain to seek to forecast.

But let everyone read this valuable little book for himself. It is to be hoped that it will be circulated extensively, not only in England, but throughout the whole Catholic world.

The translation is marred at times by a certain awkwardness of style and phrase; for instance: "I was very far from suspecting towards what future this voyage, since when I have not again seen my native country, was to lead me" (pp. 43-44).

And . . . "to retain, in again thoroughly imbuing it, her own identity?" (p. 55) is hardly the meaning of ". . . de garder, en

l'approfondissant encore, sa propre unité?" (*Souvenirs et Pensées*, p. 100). The French "une information" is translated as "an information" instead of "an enquiry".

All in all a precious little book, but perhaps in a second edition the translation might be slightly modified.

H. VAN STRAELEN, S.V.D.

Pathfinders of Christ. Edited by C. Desmond Ford, S.J. With a foreword by Lord Rowallan, Chief Scout, and a prologue by C. C. Martindale, S.J. (Burns Oates. 7s. 6d.)

ROVERS are a senior branch of the Boy Scout Movement—young men of over seventeen years of age who may or may not have been Boy Scouts. The Rovers of Heythrop College have written the lives of ten saints to illustrate the ten precepts of the Scout Law and thereby have put in their debt not only every Scout but every boy and girl and all who have to deal with youth—and who has not? There can be no question about the book's success. It needs only to be known to be seized.

Baden-Powell himself with his vision and enthusiasm would have made good use of it. He dearly loved a story with a moral and was fond of holding up for emulation the ideals and achievements of those who set out on perilous expeditions inspired by something more than the love of adventure. From the first he gave a talk round the camp fire at night, and this yarn or instructional talk was followed by a game, after which the meeting concluded with prayers and lowering the Flag. To find stories for such an audience is not easy.

It is not difficult to think of saints who were perfect examples for Scouts. Not the least interesting thing in the book is to discover on whom the authors' choice has fallen. Not so obvious, however, must have been the choice of a saint to illustrate the eighth precept: a Scout smiles and whistles under all difficulties. "I agree," writes Fr Martindale in the happiest of prologues, "that I can't think of a saint who exactly 'whistled' in all difficulties: but lots of them sang or played the violin." St Isaac Jogues and his companions sang on the north bank of the Mohawk when darkness fell that day in 1642, the eve of our Lady's Assumption. "Above the laughter and the gibes of the Iroquois there arose the voices of this little band and their song echoed into the night, was caught up by the southing of the wind in the trees and carried across the waters of the Mohawk, a song from men who had been racked and twisted and broken, full of faith, and hope, and trust, and unutterable love." What a story to tell at night surrounded by a circle of fire-lit faces!

The last twenty minutes of Saturday night's camp are used by Catholic Scouts to prepare for Sunday's Mass. What could be more appropriate than the story of St Tarsicius? This story was read to a Wolf Cub pack (ages 8-11). Their eyes never left the teller's face, and later this is what one wrote: "I like the story about Tarsicius because it seems to me to be the natural thing a good Catholic boy would do. It compels me to think how easily that boy could have been myself. It shows that not only men and women can be brave but also children. The hero is a boy, not a man. I like stories of saints and miracles. I wanted it to end quicker because I wanted to know if he succeeded in getting the Blessed Sacrament to the prisoners. It was thrilling and it gripped me."

Of the story of St Peter Claver another boy wrote: "It explains the fourth Scout law clearly, since it made no difference to him whether he was attending rich Christians or poor pagan slaves. He was a friend to them all no matter what country, class or creed they belonged to. He had no favourites and he put everything he had into his life's work. It must have been an awful job to go into the holds. . . . It brought home to me the meaning of 'Love thy neighbour as thyself'. But the story was too sad at the end."

Among the chosen ten appears St John Bosco, who to his mother's question why he wanted to become a priest replied: "I want to help boys. I shall make them love me. I shall make them love God." May the four hundred thousand boys and young men in the Boy Scouts in Great Britain and the many millions throughout the world who owe something to the movement come, through this book, to love God more.

G. L.

The Priest. By St John Eudes. Pp. xxvii + 306. (Kenedy, New York.
\$3.00.)

PRIESTS of all ages, as well as seminarians who are yet looking forward to Ordination, will find in this work of St John Eudes a manual of spiritual guidance particularly appropriate for their privileged way of life. There is but one priesthood, the priesthood of Christ: and if the eyes of those who share it are not turned towards their Master they will never find their only way of priestly holiness. Hence does the saintly author begin with the Eternal High Priest, from Whom he discovers inspiration to speak in detail of the daily work of earthly priests for souls.

One's heart warms to be reminded in the noble sentences of St John Eudes of the sublimity of the priestly vocation; but the same heart almost fails at the deeper realization of what manner of man

a priest of God should really be. Then, with further study of what this book contains, comes the resolve of truer personal dedication to priestly labour, as we follow the Saint in his discourse upon the greatness of our apostolate, the daily life of the men who share the Lord's anointing. To read what St John Eudes has to say of ordinary pastoral work is nothing less than a grace bestowed at the Saint's intercession.

More than a hundred pages in this volume are given to meditations, all of them being the direct result of the practical considerations made in the earlier chapters. The obligations and duties of the priesthood are spoken of in detail, and this by one who himself attained to eminent holiness by his work among God's people, and who experienced the failures and disappointments that creep into the life of every priest. All else pales before the glory of being one of Christ's own company.

Another 200 Sermon Notes. By Rev. F. H. Drinkwater. Pp. xii + 210.
(Burns Oates. 15s.)

Short Sermons. By the late M. O'Connell, D.D., and Sebastian Lee,
O.F.M., D.D. Pp. 264. (The Standard Ltd., Pearse Street,
Dublin. 6s.)

TEN years ago the present writer saw Fr Drinkwater's unpublished sermon notes in typescript and urged him to give them to his brethren on the plea that so many priests had found previous volumes of his sermon *schemata* of great practical value. It is a delight now to welcome the printed work, which fully maintains the standard of its predecessors.

Having provided generously for the Sunday morning sermon (there are two sets of notes for each Sunday in the year), the author gives material for talks on almost any conceivable church occasion when an address is called for. There are notes also for courses of sermons: Advent, Lent, Holy Hour, Sacred Heart, Month of May, etc. Being himself a busy parish priest, the author knows what is needed if people are to be interested as well as instructed; always he aims at direct application of the Church's teaching in ordinary daily life.

One finds a tone of originality throughout this book, and the consequent prompting it brings to the preparation of sermons—and what a labour that can be! Preaching is in many ways the most trying part of a priest's apostolate. These notes will help to lighten the labour because of the good start they give to the preacher by their freshness of treatment, even with the most age-worn of subjects. One is always sure of a new idea from Fr Drinkwater.

The volume of *Short Sermons* from Dublin, containing an address on both Gospel and Epistle for each Sunday in the calendar, is of the high merit associated with the work of the late Dr O'Connell. He adapted his sermons for the early Sunday Masses, when five minutes is frequently the maximum that can be allowed. That solid instruction in the Faith can be imparted in so short a space of time is here proved in a sermon book that is a real triumph of practical homiletics.

By Jacob's Well. By Archbishop James Leen. Pp. viii + 263. (Burns Oates. 12s. 6d.)

Any Saint to Any Nun. Edited by a Benedictine of Stanbrook. Pp. xxxi + 144. (Burns Oates. 8s. 6d.)

ARCHBISHOP LEEN's work is a "planned retreat" prepared in a special way for priests and religious. It has, as one would expect from this learned author, a richness and variety of thought and phrase that places it in the first rank of such works. The usual ground of an annual retreat is covered, but since His Grace supposes the retreat will last for a full ten days, and all the subjects are treated *in extenso*, the result is a complete treatise. The book is of high value as spiritual reading, and it is also a first-class aid to those whose duty it is to conduct preached retreats.

Any Saint to Any Nun, although not dealing directly with time spent in retreat, is an ideal book for such a time, primarily for nuns but secondarily for anyone else whose life is dedicated to God; it is therefore a book from which priests may glean much guidance. The editor presents an inconsequent series of letters from various saints—God's best servants of all centuries—to their friends. The saints are specialists in leading men to Heaven. Here we have these specialists pleading with all the earnestness their sanctity can summon for an uncompromising love and service on the part of all who will face life for the Master in reality and in truth.

St Bernardine's Sermon on St Joseph. Translated by Eric May, O.F.M.Cap., S.T.L. Pp. 51. (St Anthony's Guild, Paterson, New Jersey.)

THIS carefully annotated translation of St Bernardine's famous sermon is a pocket compendium of doctrine regarding St Joseph. No important point—and there are many points of controversy—is left unmentioned, and all the positive features of the subject are firmly drawn. As Father Eric May says, the Saint wrote with authority, and that authority has been fully recognized.

There is little of fire or enthusiasm in the translation, no attempt being made to reproduce the ardour of the preacher. We are given a dogmatic treatise rather than a sermon, and for this very reason the booklet is of present-day value in the pulpit. It is a well-stored source of accurate information about a pre-eminently popular saint whose position in the Church is unique.

Sanctity Will Out. By Georges Bernanos. Pp. 54. (Sheed & Ward. 6s.)

THIS translation (by R. Batchelor) of an essay on St Joan is in the author's well-known realist style, a style more suitable for novels than for Lives of the Saints. The simplicity of St Joan's heroic faith is emphasized, and the blindness of her judges is brought out in vivid contrast with her own clear vision of what God wanted of her and of what she meant to give to Him. The book is a vehement cry of triumph at the Saint's complete rehabilitation.

The author appears to be set upon proving a thesis, "Our Church is the Church of the saints and not of the churchmen", a thesis whose refutation would find few defenders. Of course our Church is the Church of the saints, but there is room within for others also, even for the misguided men who, in fear rather than in fury, sent St Joan to her death. They are given hard names by the author, these "foxes of the schools, these rats", and they make a sorry display as he brings them before our eyes. We are finally left wondering if this bitter defence of the Maid is necessary or desirable, since her innocence and sanctity have for so very long a time been universally accepted.

Not One Sparrow. By E. Roberts. Pp. 72. (Douglas Organ, 140 Strand, W.C.2. 3s. 6d.)

The Seven Deadly Virtues. By Bernard Bassett, S.J. Pp. 126. (Douglas Organ, 140 Strand, W.C.2. 6s.)

FACT that is stranger than fiction weaves into excellent stories under the hands of so graceful a writer as the author of this collection of a dozen "spiritual experiences". Each tale has an element of surprise, like a glimpse into the other world, a momentary lifting of the veil. It is the surprise that takes and holds one's attention, giving the author time sufficient to bring forward his lesson. This is the sort of book to fill the growing need of material for reading aloud to Confraternities and Mothers' Unions, and we warmly recommend it for the purpose because of its bright style and its thoroughly Catholic tone.

Father Bassett's sequel to *Marjorie and Me*, with its wisdom and

wit in every paragraph, is an unqualified delight. There is about it an intimacy that makes one feel immediately at home in the author's company from each opening sentence to the end of every chapter. It is very much a book for Catholic readers, who will recognize each character. It is not a little sad that we know the characters so well, for they are not all desirable, although they are humiliatingly numerous. Here one gets the unvarnished truth about the Children of Mary and the Altar Society, to say nothing of groups so different as the church workers and the pseudo-liturgists. Books on the whole have become expensive, but this one is an investment that pays a generous dividend.

L. T. H.

With Father Vincent at Marble Arch. By E. A. Siderman. (Blackfriars, Oxford. 2s.)

THIS enthusiastic tribute to the late Fr McNabb may suggest to some minds that popular apologetics in the open air cannot be of great avail, for the writer has been a "consistent and persistent" questioner at the C.E.G. platform in Hyde Park for about twenty years, and still finds himself unable to accept the claims of the Catholic Church. A truer estimate, however, might be given in the words of St Ambrose, prefixed by Newman to his *Grammar of Assent*: "Non in dialectica complacuit Deo salvum facere populum suum", for the act of faith is always a divine gift due more to grace than to the study of the motives of credibility. At least many prejudices have been removed from the questioner's mind, and everyone will be most grateful to him for this unsolicited, friendly and generous record.

Diocesan Censures "latae sententiae" and Reserved Sins in the United States. Pp. 40. From *Theological Studies*, 1947, n. 3. (Woodstock, Md., U.S.A. \$50.)

THIS issue of *Theological Studies* contains a complete analysis of all the reserved sins and censures in American dioceses, a useful work which must have entailed very considerable labour for the compiler. It was well worth a separate issue, which, unlike the original article, has an alphabetical index. Civil marriage is either a reserved sin or censure in most places, and quite a number of dioceses have a local censure incurred by ecclesiastics who retain ecclesiastical funds under their own name, a practice which, though free from any wrong intention, often leads to trouble with executors after a priest's death. It is evident, from a perusal of these lists, that the American bishops have wisely used their right in affixing diocesan censures as a sanction for the graver laws.

E. J. M.

Redemptorist Hymn Book with Music. Edited by a Redemptorist Father. Pp. 40. (Burns Oates & Washbourne, Ltd., Dublin. 2s. 6d.)

A HYMN BOOK with music, at a price within the reach of most, is particularly welcome in view of the recent Encyclical *Mediator Dei*, in which the Holy Father warmly encourages congregational singing. People are naturally diffident about raising their voices when they are uncertain of the tune, and many have been unable to afford the high cost of a book containing the music. But now a representative collection of thirty-eight hymns, with their tunes, may be obtained for half-a-crown. This contains a miscellaneous section, one or two children's hymns, one of them in Gaelic, and the two Latin hymns for Benediction, with the *Adoremus* and *Laudate*. The arrangements are, with a few exceptions, simple. It is to be hoped that this small book will be followed by others of the same kind, but please will the editor see that the words and music are always on the same or facing pages.

M. T.

CORRESPONDENCE

INSEMINATIO ARTIFICIALIS SINE POLLUTIONE PRAEVIA

(THE CLERGY REVIEW, 1945, XXV, pp. 268, 335, 381)

The Rev. Joseph Mullin writes:

In the recent discussions on artificial insemination, much was said about the morality of insemination brought about by using material obtained from the husband without causing solitary sin. It was reluctantly conceded that the opinion of the small group of recent theologians (principally Fr Vermeersch) who approve of it must be considered at least extrinsically probable (THE CLERGY REVIEW, XXV, p. 268).

Implicit in the discussion is the assumption that this method is medically possible. But this is simply untrue. Yet, for the sake of the consciences of medical men and any parishioners who might ask, deanery conferences and individual priests have been at great pains to point out that the method can still be considered permissible. And one has known cases in which good Catholic couples with no children have approached the higher ecclesiastical authorities for permission to use it.

I am assured on the best authority that the method is useless and is never employed. It is indeed employed to determine the presence and effect the cure, amongst other things, of gonorrhœa and testicular disease. But it is quite useless for artificial insemination. The theological discussion of this opinion has therefore value only in so far as it sheds light on moral principles—very much as the discussion of the alleged mediaeval theme of how many angels can dance upon a needle may bring out much of what we know about angelic nature.

After one or two of us had raised doubts at a deanery conference about the matter, I mentioned it to a general practitioner at a medico-moral lecture in a Catholic hospital. He smiled indulgently, but was good enough to approach on my behalf a European authority on endocrines, and a professor of obstetrics and gynaecology. Both of the methods mentioned by Vermeersch were submitted to him—prostatic massage (*analis frictio*) and testicular puncture (*punctio in epididymo*); cf. Vermeersch, Vol. IV, p. 59, ed. 3. The reply was that material obtained by prostatic massage contains only an occasional spermatozoon, because it is now known that the spermatozoa are not stored in the seminal vesicles. They cannot be obtained from the vesicles or prostate. As for testicular puncture, testicular spermatozoa are not mature and are incapable of fertilization. They become fully mature only during their two weeks' journey through the epididymis and vas. It is believed that there is one case on record of successful insemination by this second method. This means that it is not hopeless, but, I was informed, the chances are very small and not worth considering seriously.

A further important point, going beyond the question of artificial insemination, follows from this. Since fertility of the male is in part an expression of spermatozoon count, morphology and motility, then prostatic massage and testicular puncture are likewise of no value in deciding male fertility. Their value in determining the presence or absence of disease is not denied. But it follows that there is only one sinless way in which a specimen for examination to determine fertility in a male can be obtained, and that is by taking it from the vagina after lawful intercourse.

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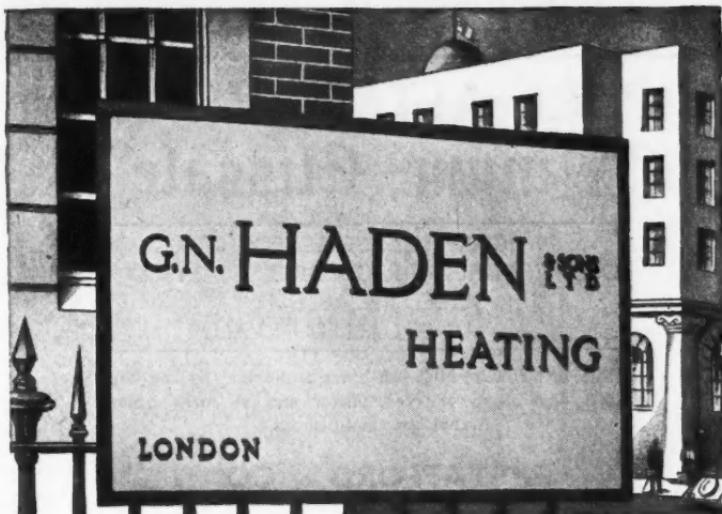
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